



January 31, 2003

HOUSE BILL No. 1003

DIGEST OF HB 1003 (Updated January 23, 2003 12:23 PM - DI 96)

Citations Affected: IC 5-16; IC 22-1; IC 22-3; IC 22-4; IC 22-5; IC 27-4; noncode.

Synopsis: Various employment related statutes. Authorizes the use of federal money by the department of workforce development for various purposes. Establishes requirements for the procedure used by a common construction wage committee to determine the scale of wages for the construction of a public work. Provides that a person may request that the department of labor review a determination if the person has substantial reason to believe that the determination does not comply with the common construction wage law. Authorizes the department of labor to enforce the independent contractor exemption from worker's compensation and occupational disease coverage and allocates amounts in the worker's compensation supplemental administrative fund for enforcement. Provides that a person who fails to: (1) obtain a copy of an independent contractor's stamped certificate of exemption before the contractor performs work; or (2) keep a copy of the certificate on file as long as the contractor is performing work; is subject to a civil penalty not to exceed \$1,000 per violation. Increases worker's compensation and occupational disease benefits. Modifies the average weekly wage for an employee who sustains a compensable injury or occupational disease after a prior period of disability. Revises the calculation of second injury fund assessments. Establishes an occupational disease second injury fund. Authorizes a 10% prejudgment interest rate for disputed worker's compensation and occupational disease claims. Establishes disabled from trade compensation. Requires an employer to give an employee 30 days notice before terminating temporary total disability benefits. Provides
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Effective: Upon passage; July 1, 2003.

Liggett, Torr, Stilwell, Young D

January 15, 2003, read first time and referred to Committee on Labor and Employment.
January 28, 2003, amended, reported — Do Pass. Referred to Committee on Ways and Means.

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for a \$250 fine for failure to pay assessments into the second injury fund or occupational disease second injury fund. Requires the worker's compensation board to refer an insurance carrier that does not pay the assessments to the department of insurance for administrative action for committing an unfair or deceptive act and practice. Provides for a uniform two year statute of limitations for worker's compensation and occupational disease claims. Authorizes the worker's compensation board to appoint magistrates to determine issues arising under worker's compensation, with certain exceptions. Requires a magistrate to report the magistrate's findings in an evidentiary hearing to the board and requires a board member to enter the final order or award. Establishes a process for transferring an employee's medical treatment to another physician. Requires the written consent of an employee and the involved medical personnel for an employer representative to be present during an employee's medical treatment or examination. Establishes the grounds to disqualify a temporary employee from receiving unemployment benefits. Makes it a Class A misdemeanor for, and provides a private right of action against, a temporary employment agency that violates or fails to provide certain protections to temporary employees in the construction trades. Eliminates the waiting period for unemployment benefits. Establishes an alternative base period. Increases maximum wage credits and the taxable wage base. Allows an employee to receive a retroactive unemployment benefit when an employer shuts down operations after a labor dispute. Reduces to 10 days an employer's response time to unemployment benefit claims. Establishes work sharing and job training benefits. Requires the department of workforce development (DWD) to deposit the first \$450,000 in skills 2016 training assessments in the special employment and training services fund. Eliminates the transfer of skills 2016 training fund assessments and deposits to the unemployment insurance benefit fund. Increases to 95% the amount in the skills 2016 training fund allocated to Ivy Tech and reduces to 12.5% the maximum amount from the allocation that may be used by Ivy Tech for administrative costs. Repeals the sunset provision for the skills 2016 training program. Reduces by 20% rather than refusing the payment of benefits when an employer proves that an employee is intoxicated, commits an offense, knowingly and willfully fails to use a safety appliance, knowingly and willfully fails to obey a reasonable printed rule of the employer, or knowingly and willfully fails to perform any statutory duty. Increases an employee's compensation by 30% when an employer fails to comply with certain safety practices.

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January 31, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1003

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

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

- 1 SECTION 1. IC 5-16-7-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Any firm, individual,
3 partnership, limited liability company, or corporation that is awarded
4 a contract by the state, a political subdivision, or a municipal
5 corporation for the construction of a public work, and any
6 subcontractor of the construction, shall pay for each class of work
7 described in subsection (c)(1) on the project a scale of wages that may
8 not be less than the common construction wage.
9 (b) For the purpose of ascertaining what the common construction
10 wage is in the county, the awarding governmental agency, before
11 advertising for the contract, shall set up a committee of five (5) persons
12 as follows:
13 (1) One (1) person representing labor, to be named by the
14 president of the state federation of labor.
15 (2) One (1) person representing industry, to be named by the
16 awarding agency.
17 (3) A third member to be named by the governor.

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1 (4) One (1) taxpayer who pays the tax that will be the funding
 2 source for the project and resides in the county where the project
 3 is located. The owner of the project shall make the appointment
 4 under this subdivision.

5 (5) One (1) taxpayer who pays the tax that will be the funding
 6 source for the project and resides in the county where the project
 7 is located. The legislative body (as defined in IC 36-1-2-9) for the
 8 county where the project is located shall make the appointment
 9 under this subdivision.

10 (c) As soon as appointed, the committee shall meet in the county
 11 where the project is located and, **using a procedure that meets the**
 12 **requirements set forth in section 1.5 of this chapter, shall determine**
 13 in writing the following:

14 (1) A classification of the labor to be employed in the
 15 performance of the contract for the project, divided into the
 16 following three (3) classes:

- 17 (A) Skilled labor.
- 18 (B) Semiskilled labor.
- 19 (C) Unskilled labor.

20 (2) The wage per hour to be paid each of the classes.

21 **In making its determination, the committee is not required to shall**
 22 **consider only information not presented to the committee at the**
 23 **meeting that is conducted in accordance with section 1.5 of this**
 24 **chapter. IC 5-14-1.5 (open door law) applies to a meeting of the**
 25 **committee.**

26 (d) The rate of wages determined under subsection (c) shall not be
 27 less than the common construction wage for each of the three (3)
 28 classes of wages described in subsection (c) that are currently being
 29 paid in the county where the project is located.

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

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

39 (g) If the committee appointed under subsection (b) fails to act and
 40 to file a determination under subsection (c) at or before the time
 41 required under subsection (f), the awarding agency shall make the
 42 determination. ~~and its finding shall be final.~~



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1 (h) If a person has substantial reason to believe that a
 2 committee's determination under subsection (c) or an awarding
 3 agency's determination under subsection (g) does not comply with
 4 this chapter, the person may request, not later than ten (10) days
 5 after the date of the determination, that the department of labor
 6 review the determination:

- 7 (1) to determine whether it complies with this chapter; and
 8 (2) if the determination does not comply with this chapter, to
 9 establish the rate of wages for the project.

10 (i) It shall be a condition of a contract awarded under this chapter
 11 that the successful bidder and all subcontractors shall comply strictly
 12 with the determination made under this section.

13 (j) The provisions of this chapter do not apply to public projects
 14 in this state that would otherwise be subject to the provisions of this
 15 chapter that are to be paid for in whole or in part with funds granted by
 16 the federal government, unless the department of the federal
 17 government making the grant shall consent in writing that the
 18 provisions of this chapter are applicable to the project.

19 (k) Notwithstanding any other law, the provisions of this chapter
 20 apply to projects that will be:

- 21 (1) owned entirely; or
 22 (2) leased with an option to purchase;

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

24 (l) Notwithstanding any other law, this chapter does not apply to
 25 projects in which the actual construction costs less than one hundred
 26 fifty thousand dollars (\$150,000).

27 SECTION 2. IC 5-16-7-1.5 IS ADDED TO THE INDIANA CODE
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 29 1, 2003]: **Sec. 1.5. In making the determination required under
 30 section 1(c) of this chapter, the committee shall use a procedure
 31 that meets the following requirements:**

32 (1) The committee shall consider the following as evidence of
 33 the common construction wage currently being paid in the
 34 county where the project is located:

- 35 (A) Data presented by the department of workforce
 36 development.
 37 (B) Collective bargaining agreements, if applicable.
 38 (C) Other information submitted by interested parties.

39 (2) The evidence considered by the committee under
 40 subdivision (1) is limited to the wages and benefits currently
 41 being paid by construction industry employers.

42 (3) All testimony presented to the committee must be made



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- under oath or affirmation.**
- (4) Any part of the evidence may be submitted in written form if doing so will expedite the meeting.**
- (5) Documentary evidence may be received in the form of a copy or an excerpt.**
- (6) To the extent necessary for full disclosure of all relevant facts and issues, the committee shall afford all interested parties the opportunity to present evidence and arguments and to respond to evidence presented by other interested parties.**
- (7) The committee's written determination must list the evidence or sources that the committee relied upon in making the determination.**

SECTION 3. IC 5-16-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The definitions in this section apply throughout this chapter:

(1) "Common construction wage" means a scale of wages for each class of work described in section 1(c)(1) of this chapter that is not less than the common construction wage of all construction wages being paid in the county where a project is located, as determined by the committee described in section 1(b) of this chapter, ~~after having considered:~~

(A) reports from the department of workforce development; and

(B) any other information submitted by any person to the committee established under section 1(b) of this chapter.

using a procedure that meets the requirements set forth in section 1.5 of this chapter.

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

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

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

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1 SECTION 4. IC 5-16-7-6 IS ADDED TO THE INDIANA CODE
 2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2003]: **Sec. 6. The department of labor shall adopt rules under**
 4 **IC 4-22-2 to implement this chapter.**

5 SECTION 5. IC 22-1-1-22 IS ADDED TO THE INDIANA CODE
 6 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2003]: **Sec. 22. The commissioner of labor shall do the following:**

8 **(1) Verify compliance with and investigate matters related to**
 9 **IC 22-3-2-14.5, IC 22-3-2-14.6, IC 22-3-7-34.5, and**
 10 **IC 22-3-7-34.6.**

11 **(2) Hire additional staff for the purpose of carrying the**
 12 **enforcement of IC 22-3-2-14.5, IC 22-3-2-14.6, IC 22-3-7-34.5,**
 13 **and IC 22-3-7-34.6.**

14 **(3) Adopt rules under IC 4-22-2 to implement IC 22-3-2-14.6**
 15 **and IC 22-3-7-34.6.**

16 SECTION 6. IC 22-3-1-1 IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) There is hereby created the
 18 worker's compensation board of Indiana, which shall consist of seven
 19 (7) members, not more than four (4) of whom shall belong to the same
 20 political party, appointed by the governor, one (1) of whom ~~he~~ **the**
 21 **governor** shall designate as ~~chairman~~ **chair**. The ~~chairman~~ **chair** of
 22 said board shall be an attorney of recognized qualifications.

23 (b) Each member of said board shall hold office for four (4) years
 24 and until ~~his~~ **the member's** successor is appointed and qualified.

25 (c) Each member of the board shall devote ~~his~~ **the member's** entire
 26 time to the discharge of the duties of ~~his~~ **the member's** office and shall
 27 not hold any other position of trust or profit or engage in any
 28 occupation or business interfering with or inconsistent with the
 29 discharge of ~~his~~ **the member's** duties as such member.

30 (d) Any member of said board may be removed by the governor at
 31 any time for incompetency, neglect of duty, misconduct in office, or
 32 other good cause to be stated in writing in the order of removal. In case
 33 of a vacancy in the membership of the said board, the governor shall
 34 appoint for the unexpired term.

35 (e) The budget agency, with the approval of the governor, shall
 36 approve the salaries of the members of the board and the secretary.

37 (f) The board may appoint a secretary and may remove such
 38 secretary. The secretary shall have authority to administer oaths and
 39 issue subpoenas in connection with the administration of IC 22-3-2
 40 through IC 22-3-7.

41 (g) **The board may appoint magistrates and may remove the**
 42 **magistrates.**



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1 **(h)** The board, subject to the approval of the governor, may employ
 2 and fix the compensations of such clerical and other assistants as it may
 3 deem necessary.

4 ~~(h)~~ **(i)** The members of the board and its assistants shall be entitled
 5 to receive from the state their actual and necessary expenses while
 6 traveling on the business of the board, but such expenses shall be
 7 approved by the chairman of the board before payment is made.

8 ~~(i)~~ **(j)** All salaries and expenses of the board shall be audited and
 9 paid out of the state treasury in the manner prescribed for similar
 10 expenses in other departments or branches of the state service.

11 SECTION 7. IC 22-3-1-3 IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The worker's compensation
 13 board may adopt rules under IC 4-22-2 to carry into effect the worker's
 14 compensation law (IC 22-3-2 through IC 22-3-6) and the worker's
 15 occupational diseases law (IC 22-3-7).

16 (b) The worker's compensation board is authorized:

17 (1) to hear, determine, and review all claims for compensation
 18 under IC 22-3-2 through IC 22-3-7;

19 (2) to require medical service for injured employees;

20 (3) to approve claims for medical service or attorney's fees and
 21 the charges for nurses and hospitals;

22 (4) to approve agreements;

23 (5) to modify or change awards;

24 (6) to make conclusions of facts and rulings of law;

25 (7) to certify questions of law to the court of appeals;

26 (8) to approve deductions in compensation made by employers for
 27 amounts paid in excess of the amount required by law;

28 (9) to approve agreements between an employer and an employee
 29 or the employee's dependents for the cash payment of
 30 compensation in a lump sum, or, in the case of a person under
 31 eighteen (18) years of age, to order cash payments;

32 (10) to establish and maintain a list of independent medical
 33 examiners and to order physical examinations;

34 (11) to subpoena witnesses **and order the production and**
 35 **examination of books, papers, and records;**

36 (12) to administer oaths;

37 (13) to apply to the circuit or superior court to enforce the
 38 attendance and testimony of witnesses and the production and
 39 examination of books, papers, and records;

40 (14) to create and undertake a program designed to educate and
 41 provide assistance to employees and employers regarding the
 42 rights and remedies provided by IC 22-3-2 through IC 22-3-7, and

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1 to provide for informal resolution of disputes;
 2 (15) to assess and collect, on the board's own initiative or on the
 3 motion of a party, the penalties provided for in IC 22-3-2 through
 4 IC 22-3-7; and
 5 (16) to appoint board magistrates to determine issues arising
 6 under IC 22-3-2 through IC 22-3-7 subject to the limitations
 7 set forth in section 3.1(b) of this chapter; and
 8 (17) to exercise all other powers and duties conferred upon the
 9 board by law.

10 SECTION 8. IC 22-3-1-3.1 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2003]: **Sec. 3.1. (a) A magistrate appointed by the worker's
 13 compensation board may do the following:**

- 14 (1) Administer an oath or affirmation that is required by law.
 15 (2) Order that a subpoena be issued in a matter pending
 16 before the board.
 17 (3) Verify a certificate for the authentication of records of a
 18 proceeding conducted by the magistrate.

19 (b) A magistrate appointed by the worker's compensation board
 20 may do the following:

- 21 (1) Conduct a prehearing conference or an evidentiary
 22 hearing.
 23 (2) Determine issues arising under IC 22-3-2 through
 24 IC 22-3-7 with the following exceptions:
 25 (A) Claims regarding the compensability of an injury or a
 26 disease arising out of and in the course of employment
 27 under IC 22-3-2-2(a) or IC 22-3-7-2(a).
 28 (B) A determination as to whether one (1) of the special
 29 defenses contained in IC 22-3-2-8 or IC 22-3-7-21(b)
 30 operates as a bar to the employee's claim.
 31 (C) A determination as to whether the employee is
 32 permanently and totally disabled for purposes of
 33 IC 22-3-3-10, IC 22-3-3-13, or IC 22-3-7-16.
 34 (D) The approval of settlement agreements under
 35 IC 22-3-2-15.
 36 (E) Issues involving a lack of diligence, bad faith, or an
 37 independent tort under IC 22-3-4-12.1.

38 SECTION 9. IC 22-3-1-3.2 IS ADDED TO THE INDIANA CODE
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 40 1, 2003]: **Sec. 3.2. A magistrate shall report the magistrate's
 41 findings in an evidentiary hearing to the board. A board member
 42 shall enter the final order or award. The final order or award is**



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1 **subject to full board review under IC 22-3-4-7.**

2 SECTION 10. IC 22-3-2-2.5, AS ADDED BY P.L.235-1999,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2003]: Sec. 2.5. (a) As used in this section, "school to work
5 student" refers to a student participating in on-the-job training under
6 the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).

7 (b) Except as provided in IC 22-3-7-2.5, a school to work student is
8 entitled to the following compensation and benefits under this article:

9 (1) Medical benefits under IC 22-3-2 through IC 22-3-6.

10 (2) Permanent partial impairment compensation under
11 IC 22-3-3-10. Permanent partial impairment compensation for a
12 school to work student shall be paid in a lump sum upon
13 agreement or final award.

14 (3) In the case that death results from the injury:

15 (A) death benefits in a lump sum amount of one hundred
16 seventy-five thousand dollars (\$175,000), **subject to section**
17 **8(c) of this chapter**, payable upon agreement or final award
18 to any dependents of the student under IC 22-3-3-18 through
19 IC 22-3-3-20, or, if the student has no dependents, to the
20 student's parents; and

21 (B) burial compensation under IC 22-3-3-21.

22 (c) For the sole purpose of modifying an award under IC 22-3-3-27,
23 a school to work student's average weekly wage is presumed to be
24 equal to the federal minimum wage.

25 (d) A school to work student is not entitled to the following
26 compensation under this article:

27 (1) Temporary total disability compensation under IC 22-3-3-8.

28 (2) Temporary partial disability compensation under IC 22-3-3-9.

29 (e) Except for remedies available under IC 5-2-6.1, recovery under
30 subsection (b) is the exclusive right and remedy for:

31 (1) a school to work student; and

32 (2) the personal representatives, dependents, or next of kin, at
33 common law or otherwise, of a school to work student;

34 on account of personal injury or death by accident arising out of and in
35 the course of school to work employment.

36 SECTION 11. IC 22-3-2-8 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) ~~No~~ **Each**
38 **payment of compensation is allowed under IC 22-3-3-8, IC 22-3-3-9,**
39 **IC 22-3-3-10, or IC 22-3-3-22 is reduced by twenty percent (20%)**
40 for an injury or death due to the employee's:

41 (1) ~~knowingly self-inflicted injury, his~~ intoxication;

42 (2) ~~his~~ commission of an offense; ~~his~~

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- 1 (3) knowing **and willful** failure to use a safety appliance;
- 2 (4) ~~his~~ knowing **and willful** failure to obey a reasonable written
- 3 or printed rule of the employer which has been posted in a
- 4 conspicuous position in the place of work; or
- 5 (5) ~~his~~ knowing **and willful** failure to perform any statutory duty.

6 The burden of proof is on the defendant.

7 **(b) No compensation is allowed for an employee's knowing and**

8 **willful self-inflicted injury or death.**

9 **(c) Each payment of compensation allowed under IC 22-3-3-8,**

10 **IC 22-3-3-9, IC 22-3-3-10, or IC 22-3-3-22 shall be increased by**

11 **thirty percent (30%) for an injury or a death due to the employer's**

12 **intentional failure to comply with a statute or an administrative**

13 **regulation regarding safety methods or installation or maintenance**

14 **of safety appliances.**

15 **(d) The defendant has the burden of proof under subsections (a)**

16 **and (b).**

17 SECTION 12. IC 22-3-2-14.5, AS AMENDED BY P.L.202-2001,

18 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

19 JULY 1, 2003]: Sec. 14.5. (a) As used in this section, "independent

20 contractor" refers to a person described in IC 22-3-6-1(b)(7).

21 (b) As used in this section, "person" means an individual, a

22 proprietorship, a partnership, a joint venture, a firm, an association, a

23 corporation, or other legal entity.

24 (c) An independent contractor who does not make an election under

25 IC 22-3-6-1(b)(4) or IC 22-3-6-1(b)(5) is not subject to the

26 compensation provisions of IC 22-3-2 through IC 22-3-6 and must file

27 a statement with the department of state revenue in accordance with

28 IC 6-3-7-5 and obtain a certificate of exemption.

29 (d) Together with the statement required in subsection (c), an

30 independent contractor shall file annually with the department

31 documentation in support of independent contractor status before being

32 granted a certificate of exemption. The independent contractor must

33 obtain clearance from the department of state revenue before issuance

34 of the certificate.

35 (e) An independent contractor shall pay a filing fee in the amount

36 of fifteen dollars (\$15) with the certificate filed under subsection (g).

37 The fees collected under this subsection shall be deposited in the

38 worker's compensation supplemental administrative fund. ~~and~~

39 **Thirty-four percent (34%) of the money in the fund shall be used**

40 **allocated for all expenses the board incurs in administering this**

41 **section. Sixty-six percent (66%) of the money in the fund shall be**

42 **allocated for the enforcement of section 14.6 of this chapter,**

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1 **including the costs of hiring additional staff required by the**
2 **department of labor.**

3 (f) The worker's compensation board shall maintain a data base
4 consisting of certificates received under this section and on request
5 may verify that a certificate was filed.

6 (g) A certificate of exemption must be filed with the worker's
7 compensation board. The board shall indicate that the certificate has
8 been filed by stamping the certificate with the date of receipt and
9 returning a stamped copy to the person filing the certificate. A
10 certificate becomes effective as of midnight seven (7) business days
11 after the date file stamped by the worker's compensation board. The
12 board shall maintain a data base containing the information required in
13 subsections (d) and (f).

14 (h) A person who contracts for services of another person not
15 covered by IC 22-3-2 through IC 22-3-6 to perform work must secure
16 a copy of a stamped certificate of exemption filed under this section
17 from the person hired. A person may not require a person who has
18 provided a stamped certificate to have worker's compensation
19 coverage. The worker's compensation insurance carrier of a person who
20 contracts with an independent contractor shall accept a stamped
21 certificate in the same manner as a certificate of insurance.

22 (i) A stamped certificate filed under this section is binding on and
23 holds harmless from all claims:

24 (1) a person who contracts with an independent contractor after
25 receiving a copy of the stamped certificate; and

26 (2) the worker's compensation insurance carrier of the person who
27 contracts with the independent contractor.

28 The independent contractor may not collect compensation under
29 IC 22-3-2 through IC 22-3-6 for an injury from a person or the person's
30 worker's compensation carrier to whom the independent contractor has
31 furnished a stamped certificate.

32 SECTION 13. IC 22-3-2-14.6 IS ADDED TO THE INDIANA
33 CODE AS A NEW SECTION TO READ AS FOLLOWS
34 [EFFECTIVE JULY 1, 2003]: **Sec. 14.6. (a) As used in this section,**
35 **"person" has the meaning set forth in section 14.5 of this chapter.**

36 **(b) A person who does any of the following is subject to a civil**
37 **penalty under this section:**

38 **(1) Fails to obtain a copy of another person's stamped**
39 **certificate of exemption as required under section 14.5(h) of**
40 **this chapter before that person performs work on the person's**
41 **behalf as an independent contractor.**

42 **(2) Fails to keep a copy of another person's stamped**

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1 certificate of exemption on file as long as that person is
 2 performing work on the person's behalf as an independent
 3 contractor.

4 (c) If the department of labor determines that a person has
 5 violated subsection (b)(1) or (b)(2), the department of labor may
 6 assess a civil penalty of not more than one thousand dollars
 7 (\$1,000) for each violation, plus any investigative costs incurred
 8 and documented by the department of labor. If the department of
 9 labor determines that a civil penalty is warranted, the department
 10 of labor shall consider the following factors in determining the
 11 amount of the penalty:

12 (1) Whether the person performing work as an independent
 13 contractor meets the definition of an independent contractor
 14 under IC 22-3-6-1(b)(7).

15 (2) Whether the violation was an isolated event or part of a
 16 pattern of violations.

17 (d) All civil penalties collected under this section shall be
 18 deposited in the worker's compensation board's second injury fund
 19 created under IC 22-3-3-13.

20 (e) A civil penalty assessed under subsection (c):

21 (1) is subject to IC 4-21.5-2-6; and

22 (2) becomes effective without a proceeding under IC 4-21.5-3,
 23 unless a person requests an administrative review not later
 24 than thirty (30) days after the notice of assessment is given.

25 (f) The department of labor shall provide copies of its
 26 determinations under this section to the worker's compensation
 27 board and the department of state revenue.

28 SECTION 14. IC 22-3-3-4, AS AMENDED BY P.L.31-2000,
 29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2003]: Sec. 4. (a) After an injury and prior to an adjudication
 31 of permanent impairment, the employer shall furnish or cause to be
 32 furnished, free of charge to the employee, an attending physician for
 33 the treatment of ~~his~~ **the employee's** injuries, and in addition thereto
 34 such surgical, hospital and nursing services and supplies as the
 35 attending physician or the worker's compensation board may deem
 36 necessary. If the employee is requested or required by the employer to
 37 submit to treatment outside the county of employment, the employer
 38 shall also pay the reasonable expense of travel, food, and lodging
 39 necessary during the travel, but not to exceed the amount paid at the
 40 time of the travel by the state to its employees under the state travel
 41 policies and procedures established by the department of
 42 administration and approved by the state budget agency. If the

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1 treatment or travel to or from the place of treatment causes a loss of
 2 working time to the employee, the employer shall reimburse the
 3 employee for the loss of wages using the basis of the employee's
 4 average daily wage.

5 (b) During the period of temporary total disability resulting from the
 6 injury, the employer shall furnish the physician services, and supplies,
 7 and the worker's compensation board may, on proper application of
 8 either party, require that treatment by the physician and services and
 9 supplies be furnished by or on behalf of the employer as the worker's
 10 compensation board may deem reasonably necessary.

11 (c) **After the employee's medical treatment begins, neither the**
 12 **employer nor the employer's insurance carrier has the right to**
 13 **transfer or otherwise redirect an employee's medical treatment to**
 14 **another physician unless:**

- 15 (1) the employee makes the transfer request;
- 16 (2) the attending physician requests that the physician's
- 17 treatment of the employee be discontinued; or
- 18 (3) the worker's compensation board determines that there is
- 19 good cause for the transfer.

20 (d) **If the employer or the employer's insurance carrier desires**
 21 **to transfer or redirect the employee's medical treatment for good**
 22 **cause, the employer or the employer's insurance carrier shall file**
 23 **a transfer request with the worker's compensation board on forms**
 24 **prescribed by the board. A transfer may not occur until the**
 25 **worker's compensation board issues an order granting the transfer**
 26 **request.**

27 (e) **A representative of the employer or the employer's insurance**
 28 **carrier, including a case manager or a rehabilitation nurse, may**
 29 **not attend or be present during the employee's medical treatment**
 30 **unless the representative complies with all the following**
 31 **provisions:**

- 32 (1) **Both the employee and the treating medical personnel**
- 33 **provide express written consent.**
- 34 (2) **The written consent described in subdivision (1) is**
- 35 **required before the representative may attend or be present**
- 36 **during the employee's medical treatment.**
- 37 (3) **The representative may not jeopardize or threaten to**
- 38 **jeopardize the payment of the employee's compensation under**
- 39 **this article because the employee fails or refuses to complete**
- 40 **the written consent described in subdivision (1).**
- 41 (4) **The representative may not cause the employee to believe**
- 42 **that the employee's compensation under this article may be**

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terminated or reduced because the employee fails or refuses to complete the written consent described in subdivision (1). (5) The representative shall obtain the written consents required by subdivision (1) on forms prescribed by the worker's compensation board.

(f) After an employee's injury has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27 of this chapter, the employer may continue to furnish a physician or surgeon and other medical services and supplies, and the worker's compensation board may within the statutory period for review as provided in section 27 of this chapter, on a proper application of either party, require that treatment by that physician and other medical services and supplies be furnished by and on behalf of the employer as the worker's compensation board may deem necessary to limit or reduce the amount and extent of the employee's impairment. The refusal of the employee to accept such services and supplies, when provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of the refusal, and ~~his~~ **the employee's** right to prosecute any proceeding under IC 22-3-2 through IC 22-3-6 shall be suspended and abated until the employee's refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of the impairment, disfigurement, or death which is the result of the failure of the employee to accept the treatment, services, and supplies required under this section. However, an employer may at any time permit an employee to have treatment for ~~his~~ **the employee's** injuries by spiritual means or prayer ~~in lieu~~ **instead** of the physician or surgeon and other medical services and supplies required under this section.

~~(d)~~ (g) If, because of an emergency, or because of the employer's failure to provide an attending physician or surgical, hospital, or nursing services and supplies, or treatment by spiritual means or prayer, as required by this section, or because of any other good reason, a physician other than that provided by the employer treats the injured employee during the period of the employee's temporary total disability, or necessary and proper surgical, hospital, or nursing services and supplies are procured within the period, the reasonable cost of those services and supplies shall, subject to the approval of the

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1 worker's compensation board, be paid by the employer.

2 ~~(e)~~ **(h)** Regardless of when it occurs, where a compensable injury

3 results in the amputation of a body part, the enucleation of an eye, or

4 the loss of natural teeth, the employer shall furnish an appropriate

5 artificial member, braces, and prosthodontics. The cost of repairs to or

6 replacements for the artificial members, braces, or prosthodontics that

7 result from a compensable injury pursuant to a prior award and are

8 required due to either medical necessity or normal wear and tear,

9 determined according to the employee's individual use, but not abuse,

10 of the artificial member, braces, or prosthodontics, shall be paid from

11 the second injury fund upon order or award of the worker's

12 compensation board. The employee is not required to meet any other

13 requirement for admission to the second injury fund.

14 ~~(f)~~ **(i)** If an accident arising out of and in the course of employment

15 after June 30, 1997, results in the loss of or damage to an artificial

16 member, a brace, an implant, eyeglasses, prosthodontics, or other

17 medically prescribed device, the employer shall repair the artificial

18 member, brace, implant, eyeglasses, prosthodontics, or other medically

19 prescribed device or furnish an identical or a reasonably equivalent

20 replacement.

21 ~~(g)~~ **(j)** This section may not be construed to prohibit an agreement

22 between an employer and the employer's employees that has the

23 approval of the board and that binds the parties to:

24 (1) medical care furnished by health care providers selected by

25 agreement before or after injury; or

26 (2) the findings of a health care provider who was chosen by

27 agreement.

28 SECTION 15. IC 22-3-3-6 IS AMENDED TO READ AS

29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) After an injury

30 and during the period of claimed resulting disability or impairment, the

31 employee, if so requested by the employee's employer or ordered by the

32 industrial board, shall submit to an examination at reasonable times

33 and places by a duly qualified physician or surgeon designated and paid

34 by the employer or by order of the worker's compensation board. The

35 employee shall have the right to have present at any such examination

36 any duly qualified physician or surgeon provided and paid for by the

37 employee. No fact communicated to, or otherwise learned by, any

38 physician or surgeon who may have attended or examined the

39 employee, or who may have been present at any examination, shall be

40 privileged, either in the hearings provided for in IC 22-3-2 through

41 IC 22-3-6, or in any action at law brought to recover damages against

42 any employer who is subject to the compensation provisions of

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1 IC 22-3-2 through IC 22-3-6. If the employee refuses to submit to or in
 2 any way obstructs such examinations, the employee's right to
 3 compensation and ~~his~~ **the employee's** right to take or prosecute any
 4 proceedings under IC 22-3-2 through IC 22-3-6 shall be suspended
 5 until such refusal or obstruction ceases. No compensation shall at any
 6 time be payable for the period of suspension unless in the opinion of
 7 the worker's compensation board the circumstances justified the refusal
 8 or obstruction. The employee must be served with a notice setting forth
 9 the consequences of the refusal under this subsection. The notice must
 10 be in a form prescribed by the board.

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

30 (c) A duly qualified physician or surgeon provided and paid for by
 31 the employee may be present at an examination if the employee so
 32 desires. In all cases where the examination is made by a physician or
 33 surgeon engaged by the employer and the injured employee has no
 34 physician or surgeon present at such examination, it shall be the duty
 35 of the physician or surgeon making the examination to deliver to the
 36 injured employee, or the employee's representative, a statement in
 37 writing of the conditions evidenced by such examination. The
 38 statement shall disclose all facts that are reported by such physician or
 39 surgeon to the employer. Such statement shall be furnished to the
 40 employee or the employee's representative, as soon as practicable, but
 41 not later than thirty (30) days before the time the case is set for hearing.
 42 The statement may be submitted by either party as evidence by that

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1 physician or surgeon at a hearing before the worker's compensation
 2 board if the statement meets the requirements of subsection (e). If such
 3 physician or surgeon fails or refuses to furnish the employee or the
 4 employee's representative with such statement thirty (30) days before
 5 the hearing, then the statement may not be submitted as evidence, and
 6 such physician or surgeon shall not be permitted to testify before the
 7 worker's compensation board as to any facts learned in such
 8 examination. All of the requirements of this subsection apply to all
 9 subsequent examinations requested by the employer.

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

30 (e) **A representative of the employer or the employer's insurance**
 31 **carrier, including a case manager or a rehabilitation nurse, may**
 32 **not attend or be present during the employee's medical treatment**
 33 **unless the representative complies with all the following**
 34 **provisions:**

35 (1) **Both the employee and the treating medical personnel**
 36 **provide express written consent.**

37 (2) **The written consent described in subdivision (1) is**
 38 **required before the representative may attend or be present**
 39 **during the employee's medical treatment.**

40 (3) **The representative may not jeopardize or threaten to**
 41 **jeopardize the payment of the employee's compensation under**
 42 **this article because the employee fails or refuses to complete**

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the written consent described in subdivision (1).
(4) The representative may not cause the employee to believe that the employee's compensation under this article may be terminated or reduced because the employee fails or refuses to complete the written consent described in subdivision (1).
(5) The representative shall obtain the written consents required by subdivision (1) on forms prescribed by the worker's compensation board.

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

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

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

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

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

~~(h)~~ **(i)** The employer upon proper application, or the worker's compensation board, shall have the right in any case of death to require

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1 an autopsy at the expense of the party requesting the same. If, after a
2 hearing, the worker's compensation board orders an autopsy and such
3 autopsy is refused by the surviving spouse or next of kin, then any
4 claim for compensation on account of such death shall be suspended
5 and abated during such refusal. The surviving spouse or dependent
6 must be served with a notice setting forth the consequences of the
7 refusal under this subsection. The notice must be in a form prescribed
8 by the worker's compensation board. No autopsy, except one performed
9 by or on the authority or order of the coroner in the discharge of the
10 coroner's duties, shall be held in any case by any person, without notice
11 first being given to the surviving spouse or next of kin, if they reside in
12 Indiana or their whereabouts can reasonably be ascertained, of the time
13 and place thereof, and reasonable time and opportunity given such
14 surviving spouse or next of kin to have a representative or
15 representatives present to witness same. However, if such notice is not
16 given, all evidence obtained by such autopsy shall be suppressed on
17 motion duly made to the worker's compensation board.

18 SECTION 16. IC 22-3-3-7 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Compensation
20 shall be allowed on account of injuries producing only temporary total
21 disability to work or temporary partial disability to work beginning
22 with the eighth (8th) day of such disability except for medical benefits
23 provided in section 4 of the chapter. Compensation shall be allowed for
24 the first seven (7) calendar days only if the disability continues for
25 longer than twenty-one (21) days.

26 (b) The first weekly installment of compensation for temporary
27 disability is due fourteen (14) days after the disability begins. Not later
28 than fifteen (15) days from the date that the first installment of
29 compensation is due, the employer or the employer's insurance carrier
30 shall tender to the employee or to the employee's dependents, with all
31 compensation due, a properly prepared compensation agreement in a
32 form prescribed by the board. Whenever an employer or the employer's
33 insurance carrier denies or is not able to determine liability to pay
34 compensation or benefits, the employer or the employer's insurance
35 carrier shall notify the worker's compensation board and the employee
36 in writing on a form prescribed by the worker's compensation board not
37 later than thirty (30) days after the employer's knowledge of the
38 claimed injury. If a determination of liability cannot be made within
39 thirty (30) days, the worker's compensation board may approve an
40 additional thirty (30) days upon a written request of the employer or the
41 employer's insurance carrier that sets forth the reasons that the
42 determination could not be made within thirty (30) days and states the

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1 facts or circumstances that are necessary to determine liability within
 2 the additional thirty (30) days. More than thirty (30) days of additional
 3 time may be approved by the worker's compensation board upon the
 4 filing of a petition by the employer or the employer's insurance carrier
 5 that sets forth:

- 6 (1) the extraordinary circumstances that have precluded a
 7 determination of liability within the initial sixty (60) days;
 8 (2) the status of the investigation on the date the petition is filed;
 9 (3) the facts or circumstances that are necessary to make a
 10 determination; and
 11 (4) a timetable for the completion of the remaining investigation.

12 **If a determination of liability is not made within thirty (30) days**
 13 **after the date of injury, and the employer is subsequently**
 14 **determined to be liable to pay compensation, the first installment**
 15 **of compensation must include the accrued weekly compensation**
 16 **and interest at the legal rate of interest specified in IC 24-4.6-1-101**
 17 **computed from the date fourteen (14) days after the disability**
 18 **begins.** An employer who fails to comply with this section is subject to
 19 a civil penalty of fifty dollars (\$50), to be assessed and collected by the
 20 board upon notice and hearing. Civil penalties collected under this
 21 section shall be deposited in the state general fund.

22 (c) Once begun, temporary total disability benefits may not be
 23 terminated by the employer unless:

- 24 (1) the employee has returned to any employment;
 25 (2) the employee has died;
 26 (3) the employee has refused to undergo a medical examination
 27 under section 6 of this chapter or has refused to accept suitable
 28 employment under section 11 of this chapter;
 29 (4) the employee has received five hundred (500) weeks of
 30 temporary total disability benefits or has been paid the maximum
 31 compensation allowed under section 22 of this chapter; ~~or~~
 32 (5) the employee is unable or unavailable to work for reasons
 33 unrelated to the compensable injury; **or**
 34 **(6) the employee returns to work with limitations or**
 35 **restrictions, and the employer converts temporary total**
 36 **disability or temporary partial disability compensation into**
 37 **disabled from trade compensation under section 33 of this**
 38 **chapter.**

39 In all other cases the employer must notify the employee in writing **not**
 40 **later than thirty (30) days before the effective date of the**
 41 **termination** of the employer's intent to terminate the payment of
 42 temporary total disability benefits and of the availability of

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

24 (d) An employer is not required to continue the payment of
 25 temporary total disability benefits for more than fourteen (14) days
 26 after the employer's proposed termination date unless the independent
 27 medical examiner determines that the employee is temporarily disabled
 28 and unable to return to any employment that the employer has made
 29 available to the employee.

30 (e) If it is determined that as a result of this section temporary total
 31 disability benefits were overpaid, the overpayment shall be deducted
 32 from any benefits due the employee under section 10 of this chapter
 33 and, if there are no benefits due the employee or the benefits due the
 34 employee do not equal the amount of the overpayment, the employee
 35 shall be responsible for paying any overpayment which cannot be
 36 deducted from benefits due the employee.

37 SECTION 17. IC 22-3-3-8 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) With respect to
 39 injuries occurring prior to April 1, 1951, causing temporary total
 40 disability for work there shall be paid to the injured employee during
 41 such total disability for work a weekly compensation equal to fifty-five
 42 percent (55%) of his the injured employee's average weekly wages for

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1 a period not to exceed five hundred (500) weeks. With respect to
 2 injuries occurring on and after April 1, 1951, and prior to July 1, 1971,
 3 causing temporary total disability for work there shall be paid to the
 4 injured employee during such total disability a weekly compensation
 5 equal to sixty per cent (60%) of ~~his~~ **the injured employee's** average
 6 weekly wages for a period not to exceed five hundred (500) weeks.
 7 With respect to injuries occurring on and after July 1, 1971, and prior
 8 to July 1, 1974, causing temporary total disability for work there shall
 9 be paid to the injured employee during such total disability a weekly
 10 compensation equal to sixty per cent (60%) of ~~his~~ **the injured**
 11 **employee's** average weekly wages, as defined in ~~IC 22-3-3-22~~ **section**
 12 **22 of this chapter** a period not to exceed five hundred (500) weeks.
 13 With respect to injuries occurring on and after July 1, 1974, and before
 14 July 1, 1976, causing temporary total disability or total permanent
 15 disability for work there shall be paid to the injured employee during
 16 such total disability a weekly compensation equal to sixty-six and
 17 two-thirds percent (66 2/3%) of ~~his~~ **the injured employee's** average
 18 weekly wages up to one hundred ~~and~~ **thirty-five dollars (\$135.00)**
 19 **(\$135)** average weekly wages, as defined in section 22 of this chapter,
 20 for a period not to exceed five hundred (500) weeks. With respect to
 21 injuries occurring on and after July 1, 1976, causing temporary total
 22 disability or total permanent disability for work, there shall be paid to
 23 the injured employee during the total disability a weekly compensation
 24 equal to sixty-six and two-thirds percent (66 2/3%) of ~~his~~ **the injured**
 25 **employee's** average weekly wages, as defined in ~~IC 22-3-3-22~~ **section**
 26 **22 of this chapter**, for a period not to exceed five hundred (500)
 27 weeks. **If an employee who has sustained a compensable injury**
 28 **returns to work and suffers a later period of disability due to that**
 29 **injury after June 30, 2003, the average weekly wage for that period**
 30 **of disability shall be determined based on the employee's average**
 31 **weekly wage at the time of the disability subject to the maximum**
 32 **average weekly wage in effect as of the last day worked, computed**
 33 **as set forth in section 22 of this chapter.** Compensation shall be
 34 allowed for the first seven (7) calendar days only if the disability
 35 continues for longer than twenty-one (21) days.

36 **(b) Each payment of compensation allowed under subsection (a)**
 37 **is reduced or increased as provided in IC 22-3-2-8.**

38 SECTION 18. IC 22-3-3-9 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) With respect to
 40 injuries occurring prior to April 1, 1951, causing temporary partial
 41 disability for work, compensation shall be paid to the injured employee
 42 during such disability, as prescribed in section 7 of this chapter, a



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1 weekly compensation equal to fifty-five per cent (55%) of the
 2 difference between ~~his~~ **the employee's** average weekly wages and the
 3 weekly wages at which he is actually employed after the injury, for a
 4 period not to exceed three hundred (300) weeks. With respect to
 5 injuries occurring on and after April 1, 1951, and prior to July 1, 1974,
 6 causing temporary partial disability for work, compensation shall be
 7 paid to the injured employee during such disability, as prescribed in
 8 section 7 of this chapter, a weekly compensation equal to sixty per cent
 9 (60%) of the difference between ~~his~~ **the employee's** average weekly
 10 wages and the weekly wages at which he is actually employed after the
 11 injury, for a period not to exceed three hundred (300) weeks. With
 12 respect to injuries occurring on and after July 1, 1974, causing
 13 temporary partial disability for work, compensation shall be paid to the
 14 injured employee during such disability as prescribed in section 7 of
 15 this chapter, a weekly compensation equal to sixty-six and two-thirds
 16 per cent (66 2/3%) of the difference between ~~his~~ **the employee's**
 17 average weekly wages and the weekly wages at which ~~he~~ **the employee**
 18 is actually employed after the injury, for a period not to exceed three
 19 hundred (300) weeks. In case the partial disability begins after the
 20 period of temporary total disability, the latter period shall be included
 21 as a part of the maximum period allowed for partial disability.

22 **(b) Each payment of compensation allowed under subsection (a)**
 23 **is reduced or increased as provided in IC 22-3-2-8.**

24 SECTION 19. IC 22-3-3-10, AS AMENDED BY P.L.31-2000,
 25 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2003]: Sec. 10. (a) With respect to injuries in the following
 27 schedule occurring prior to April 1, 1951, the employee shall receive
 28 in addition to temporary total disability benefits not exceeding
 29 twenty-six (26) weeks on account of the injuries, a weekly
 30 compensation of fifty-five percent (55%) of the employee's average
 31 weekly wages. With respect to injuries in the following schedule
 32 occurring on and after April 1, 1951, and prior to July 1, 1971, the
 33 employee shall receive in addition to temporary total disability benefits
 34 not exceeding twenty-six (26) weeks on account of the injuries, a
 35 weekly compensation of sixty percent (60%) of the employee's average
 36 weekly wages. With respect to injuries in the following schedule
 37 occurring on and after July 1, 1971, and before July 1, 1977, the
 38 employee shall receive in addition to temporary total disability benefits
 39 not exceeding twenty-six (26) weeks on account of the injuries, a
 40 weekly compensation of sixty percent (60%) of the employee's average
 41 weekly wages not to exceed one hundred dollars (\$100) average weekly
 42 wages, for the periods stated for the injuries. With respect to injuries



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1 in the following schedule occurring on and after July 1, 1977, and
 2 before July 1, 1979, the employee shall receive, in addition to
 3 temporary total disability benefits not exceeding twenty-six (26) weeks
 4 on account of the injury, a weekly compensation of sixty percent (60%)
 5 of ~~his~~ **the employee's** average weekly wages, not to exceed one
 6 hundred twenty-five dollars (\$125) average weekly wages, for the
 7 period stated for the injury. With respect to injuries in the following
 8 schedule occurring on and after July 1, 1979, and before July 1, 1988,
 9 the employee shall receive, in addition to temporary total disability
 10 benefits not to exceed fifty-two (52) weeks on account of the injury, a
 11 weekly compensation of sixty percent (60%) of the employee's average
 12 weekly wages, not to exceed one hundred twenty-five dollars (\$125)
 13 average weekly wages, for the period stated for the injury. With respect
 14 to injuries in the following schedule occurring on and after July 1,
 15 1988, and before July 1, 1989, the employee shall receive, in addition
 16 to temporary total disability benefits not exceeding seventy-eight (78)
 17 weeks on account of the injury, a weekly compensation of sixty percent
 18 (60%) of the employee's average weekly wages, not to exceed one
 19 hundred sixty-six dollars (\$166) average weekly wages, for the period
 20 stated for the injury.

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

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

35 (1) Amputation: For the loss by separation of the thumb, sixty
 36 (60) weeks, of the index finger forty (40) weeks, of the second
 37 finger thirty-five (35) weeks, of the third or ring finger thirty (30)
 38 weeks, of the fourth or little finger twenty (20) weeks, of the hand
 39 by separation below the elbow joint two hundred (200) weeks, or
 40 the arm above the elbow two hundred fifty (250) weeks, of the big
 41 toe sixty (60) weeks, of the second toe thirty (30) weeks, of the
 42 third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks,

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1 of the fifth or little toe ten (10) weeks, and for loss occurring
 2 before April 1, 1959, by separation of the foot below the knee
 3 joint one hundred fifty (150) weeks and of the leg above the knee
 4 joint two hundred (200) weeks; for loss occurring on and after
 5 April 1, 1959, by separation of the foot below the knee joint, one
 6 hundred seventy-five (175) weeks and of the leg above the knee
 7 joint two hundred twenty-five (225) weeks. The loss of more than
 8 one (1) phalange of a thumb or toes shall be considered as the loss
 9 of the entire thumb or toe. The loss of more than two (2)
 10 phalanges of a finger shall be considered as the loss of the entire
 11 finger. The loss of not more than one (1) phalange of a thumb or
 12 toe shall be considered as the loss of one-half (1/2) of the thumb
 13 or toe and compensation shall be paid for one-half (1/2) of the
 14 period for the loss of the entire thumb or toe. The loss of not more
 15 than one (1) phalange of a finger shall be considered as the loss
 16 of one-third (1/3) of the finger and compensation shall be paid for
 17 one-third (1/3) the period for the loss of the entire finger. The loss
 18 of more than one (1) phalange of the finger but not more than two
 19 (2) phalanges of the finger, shall be considered as the loss of
 20 one-half (1/2) of the finger and compensation shall be paid for
 21 one-half (1/2) of the period for the loss of the entire finger.
 22 (2) For the loss by separation of both hands or both feet or the
 23 total sight of both eyes, or any two (2) such losses in the same
 24 accident, five hundred (500) weeks.
 25 (3) For the permanent and complete loss of vision by enucleation
 26 or its reduction to one-tenth (1/10) of normal vision with glasses,
 27 one hundred seventy-five (175) weeks.
 28 (4) For the permanent and complete loss of hearing in one (1) ear,
 29 seventy-five (75) weeks, and in both ears, two hundred (200)
 30 weeks.
 31 (5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of
 32 both testicles, one hundred fifty (150) weeks.
 33 (b) With respect to injuries in the following schedule occurring prior
 34 to April 1, 1951, the employee shall receive in lieu of all other
 35 compensation on account of the injuries, a weekly compensation of
 36 fifty-five percent (55%) of the employee's average weekly wages. With
 37 respect to injuries in the following schedule occurring on and after
 38 April 1, 1951, and prior to April 1, 1955, the employee shall receive in
 39 lieu of all other compensation on account of the injuries a weekly
 40 compensation of sixty percent (60%) of the employee's average weekly
 41 wages. With respect to injuries in the following schedule occurring on
 42 and after April 1, 1955, and prior to July 1, 1971, the employee shall

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1 receive in addition to temporary total disability benefits not exceeding
2 twenty-six (26) weeks on account of the injuries, a weekly
3 compensation of sixty percent (60%) of the employee's average weekly
4 wages. With respect to injuries in the following schedule occurring on
5 and after July 1, 1971, and before July 1, 1977, the employee shall
6 receive in addition to temporary total disability benefits not exceeding
7 twenty-six (26) weeks on account of the injuries, a weekly
8 compensation of sixty percent (60%) of the employee's average weekly
9 wages, not to exceed one hundred dollars (\$100) average weekly
10 wages, for the period stated for such injuries respectively. With respect
11 to injuries in the following schedule occurring on and after July 1,
12 1977, and before July 1, 1979, the employee shall receive, in addition
13 to temporary total disability benefits not exceeding twenty-six (26)
14 weeks on account of the injury, a weekly compensation of sixty percent
15 (60%) of the employee's average weekly wages not to exceed one
16 hundred twenty-five dollars (\$125) average weekly wages, for the
17 period stated for the injury. With respect to injuries in the following
18 schedule occurring on and after July 1, 1979, and before July 1, 1988,
19 the employee shall receive, in addition to temporary total disability
20 benefits not exceeding fifty-two (52) weeks on account of the injury, a
21 weekly compensation of sixty percent (60%) of the employee's average
22 weekly wages not to exceed one hundred twenty-five dollars (\$125)
23 average weekly wages for the period stated for the injury. With respect
24 to injuries in the following schedule occurring on and after July 1,
25 1988, and before July 1, 1989, the employee shall receive, in addition
26 to temporary total disability benefits not exceeding seventy-eight (78)
27 weeks on account of the injury, a weekly compensation of sixty percent
28 (60%) of the employee's average weekly wages, not to exceed one
29 hundred sixty-six dollars (\$166) average weekly wages, for the period
30 stated for the injury.

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

38 With respect to injuries in the following schedule occurring on and
39 after July 1, 1990, and before July 1, 1991, the employee shall receive,
40 in addition to temporary total disability benefits not exceeding
41 seventy-eight (78) weeks on account of the injury, a weekly
42 compensation of sixty percent (60%) of the employee's average weekly

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1 wages, not to exceed two hundred dollars (\$200) average weekly
 2 wages, for the period stated for the injury.

3 (1) Loss of use: The total permanent loss of the use of an arm,
 4 hand, thumb, finger, leg, foot, toe, or phalange shall be considered
 5 as the equivalent of the loss by separation of the arm, hand,
 6 thumb, finger, leg, foot, toe, or phalange, and compensation shall
 7 be paid for the same period as for the loss thereof by separation.

8 (2) Partial loss of use: For the permanent partial loss of the use of
 9 an arm, hand, thumb, finger, leg, foot, toe, or phalange,
 10 compensation shall be paid for the proportionate loss of the use of
 11 such arm, hand, thumb, finger, leg, foot, toe, or phalange.

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

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

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

29 (6) In all other cases of permanent partial impairment,
 30 compensation proportionate to the degree of such permanent
 31 partial impairment, in the discretion of the worker's compensation
 32 board, not exceeding five hundred (500) weeks.

33 (7) In all cases of permanent disfigurement which may impair the
 34 future usefulness or opportunities of the employee, compensation,
 35 in the discretion of the worker's compensation board, not
 36 exceeding two hundred (200) weeks, except that no compensation
 37 shall be payable under this subdivision where compensation is
 38 payable elsewhere in this section.

39 (c) With respect to injuries in the following schedule occurring on
 40 and after July 1, 1991, the employee shall receive in addition to
 41 temporary total disability benefits, not exceeding one hundred
 42 twenty-five (125) weeks on account of the injury, compensation in an

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1 amount determined under the following schedule to be paid weekly at
 2 a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's
 3 average weekly wages during the fifty-two (52) weeks immediately
 4 preceding the week in which the injury occurred.

5 (1) Amputation: For the loss by separation of the thumb, twelve
 6 (12) degrees of permanent impairment; of the index finger, eight
 7 (8) degrees of permanent impairment; of the second finger, seven
 8 (7) degrees of permanent impairment; of the third or ring finger,
 9 six (6) degrees of permanent impairment; of the fourth or little
 10 finger, four (4) degrees of permanent impairment; of the hand by
 11 separation below the elbow joint, forty (40) degrees of permanent
 12 impairment; of the arm above the elbow, fifty (50) degrees of
 13 permanent impairment; of the big toe, twelve (12) degrees of
 14 permanent impairment; of the second toe, six (6) degrees of
 15 permanent impairment; of the third toe, four (4) degrees of
 16 permanent impairment; of the fourth toe, three (3) degrees of
 17 permanent impairment; of the fifth or little toe, two (2) degrees of
 18 permanent impairment; by separation of the foot below the knee
 19 joint, thirty-five (35) degrees of permanent impairment; and of the
 20 leg above the knee joint, forty-five (45) degrees of permanent
 21 impairment.

22 (2) Amputations: For the loss by separation of any of the body
 23 parts described in subdivision (1) on or after July 1, 1997, and for
 24 the loss by separation of any of the body parts described in
 25 subdivision (3), (5), or (8), on or after July 1, 1999, the dollar
 26 values per degree applying on the date of the injury as described
 27 in subsection (d) shall be multiplied by two (2). However, the
 28 doubling provision of this subdivision does not apply to a loss of
 29 use that is not a loss by separation.

30 (3) The loss of more than one (1) phalange of a thumb or toe shall
 31 be considered as the loss of the entire thumb or toe. The loss of
 32 more than two (2) phalanges of a finger shall be considered as the
 33 loss of the entire finger. The loss of not more than one (1)
 34 phalange of a thumb or toe shall be considered as the loss of
 35 one-half (1/2) of the degrees of permanent impairment for the loss
 36 of the entire thumb or toe. The loss of not more than one (1)
 37 phalange of a finger shall be considered as the loss of one-third
 38 (1/3) of the finger and compensation shall be paid for one-third
 39 (1/3) of the degrees payable for the loss of the entire finger. The
 40 loss of more than one (1) phalange of the finger but not more than
 41 two (2) phalanges of the finger shall be considered as the loss of
 42 one-half (1/2) of the finger and compensation shall be paid for

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1 one-half (1/2) of the degrees payable for the loss of the entire
 2 finger.
 3 (4) For the loss by separation of both hands or both feet or the
 4 total sight of both eyes or any two (2) such losses in the same
 5 accident, one hundred (100) degrees of permanent impairment.
 6 (5) For the permanent and complete loss of vision by enucleation,
 7 thirty-five (35) degrees of permanent impairment.
 8 (6) For the reduction of vision to one-tenth (1/10) of normal
 9 vision with glasses, thirty-five (35) degrees of permanent
 10 impairment.
 11 (7) For the permanent and complete loss of hearing in one (1) ear,
 12 fifteen (15) degrees of permanent impairment, and in both ears,
 13 forty (40) degrees of permanent impairment.
 14 (8) For the loss of one (1) testicle, ten (10) degrees of permanent
 15 impairment; for the loss of both testicles, thirty (30) degrees of
 16 permanent impairment.
 17 (9) Loss of use: The total permanent loss of the use of an arm, a
 18 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
 19 considered as the equivalent of the loss by separation of the arm,
 20 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
 21 shall be paid in the same amount as for the loss by separation.
 22 However, the doubling provision of subdivision (2) does not
 23 apply to a loss of use that is not a loss by separation.
 24 (10) Partial loss of use: For the permanent partial loss of the use
 25 of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
 26 phalange, compensation shall be paid for the proportionate loss of
 27 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.
 28 (11) For injuries resulting in total permanent disability, the
 29 amount payable for impairment or five hundred (500) weeks of
 30 compensation, whichever is greater.
 31 (12) For any permanent reduction of the sight of an eye less than
 32 a total loss as specified in subsection (a)(3), the compensation
 33 shall be paid in an amount proportionate to the degree of a
 34 permanent reduction without correction or glasses. However,
 35 when a permanent reduction without correction or glasses would
 36 result in one hundred percent (100%) loss of vision, then
 37 compensation shall be paid for fifty percent (50%) of the total loss
 38 of vision without glasses, plus an additional amount equal to the
 39 proportionate amount of the reduction with glasses, not to exceed
 40 an additional fifty percent (50%).
 41 (13) For any permanent reduction of the hearing of one (1) or both
 42 ears, less than the total loss as specified in subsection (a)(4),

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- 1 compensation shall be paid in an amount proportionate to the
 2 degree of a permanent reduction.
- 3 (14) In all other cases of permanent partial impairment,
 4 compensation proportionate to the degree of a permanent partial
 5 impairment, in the discretion of the worker's compensation board,
 6 not exceeding one hundred (100) degrees of permanent
 7 impairment.
- 8 (15) In all cases of permanent disfigurement which may impair
 9 the future usefulness or opportunities of the employee,
 10 compensation, in the discretion of the worker's compensation
 11 board, not exceeding forty (40) degrees of permanent impairment
 12 except that no compensation shall be payable under this
 13 subdivision where compensation is payable elsewhere in this
 14 section.
- 15 (d) Compensation for permanent partial impairment shall be paid
 16 according to the degree of permanent impairment for the injury
 17 determined under subsection (c) and the following:
- 18 (1) With respect to injuries occurring on and after July 1, 1991,
 19 and before July 1, 1992, for each degree of permanent impairment
 20 from one (1) to thirty-five (35), five hundred dollars (\$500) per
 21 degree; for each degree of permanent impairment from thirty-six
 22 (36) to fifty (50), nine hundred dollars (\$900) per degree; for each
 23 degree of permanent impairment above fifty (50), one thousand
 24 five hundred dollars (\$1,500) per degree.
- 25 (2) With respect to injuries occurring on and after July 1, 1992,
 26 and before July 1, 1993, for each degree of permanent impairment
 27 from one (1) to twenty (20), five hundred dollars (\$500) per
 28 degree; for each degree of permanent impairment from
 29 twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)
 30 per degree; for each degree of permanent impairment from
 31 thirty-six (36) to fifty (50), one thousand three hundred dollars
 32 (\$1,300) per degree; for each degree of permanent impairment
 33 above fifty (50), one thousand seven hundred dollars (\$1,700) per
 34 degree.
- 35 (3) With respect to injuries occurring on and after July 1, 1993,
 36 and before July 1, 1997, for each degree of permanent impairment
 37 from one (1) to ten (10), five hundred dollars (\$500) per degree;
 38 for each degree of permanent impairment from eleven (11) to
 39 twenty (20), seven hundred dollars (\$700) per degree; for each
 40 degree of permanent impairment from twenty-one (21) to
 41 thirty-five (35), one thousand dollars (\$1,000) per degree; for
 42 each degree of permanent impairment from thirty-six (36) to fifty

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- 1 (50), one thousand four hundred dollars (\$1,400) per degree; for
2 each degree of permanent impairment above fifty (50), one
3 thousand seven hundred dollars (\$1,700) per degree.
- 4 (4) With respect to injuries occurring on and after July 1, 1997,
5 and before July 1, 1998, for each degree of permanent impairment
6 from one (1) to ten (10), seven hundred fifty dollars (\$750) per
7 degree; for each degree of permanent impairment from eleven
8 (11) to thirty-five (35), one thousand dollars (\$1,000) per degree;
9 for each degree of permanent impairment from thirty-six (36) to
10 fifty (50), one thousand four hundred dollars (\$1,400) per degree;
11 for each degree of permanent impairment above fifty (50), one
12 thousand seven hundred dollars (\$1,700) per degree.
- 13 (5) With respect to injuries occurring on and after July 1, 1998,
14 and before July 1, 1999, for each degree of permanent impairment
15 from one (1) to ten (10), seven hundred fifty dollars (\$750) per
16 degree; for each degree of permanent impairment from eleven
17 (11) to thirty-five (35), one thousand dollars (\$1,000) per degree;
18 for each degree of permanent impairment from thirty-six (36) to
19 fifty (50), one thousand four hundred dollars (\$1,400) per degree;
20 for each degree of permanent impairment above fifty (50), one
21 thousand seven hundred dollars (\$1,700) per degree.
- 22 (6) With respect to injuries occurring on and after July 1, 1999,
23 and before July 1, 2000, for each degree of permanent impairment
24 from one (1) to ten (10), nine hundred dollars (\$900) per degree;
25 for each degree of permanent impairment from eleven (11) to
26 thirty-five (35), one thousand one hundred dollars (\$1,100) per
27 degree; for each degree of permanent impairment from thirty-six
28 (36) to fifty (50), one thousand six hundred dollars (\$1,600) per
29 degree; for each degree of permanent impairment above fifty (50),
30 two thousand dollars (\$2,000) per degree.
- 31 (7) With respect to injuries occurring on and after July 1, 2000,
32 and before July 1, 2001, for each degree of permanent impairment
33 from one (1) to ten (10), one thousand one hundred dollars
34 (\$1,100) per degree; for each degree of permanent impairment
35 from eleven (11) to thirty-five (35), one thousand three hundred
36 dollars (\$1,300) per degree; for each degree of permanent
37 impairment from thirty-six (36) to fifty (50), two thousand dollars
38 (\$2,000) per degree; for each degree of permanent impairment
39 above fifty (50), two thousand five hundred fifty dollars (\$2,500)
40 per degree.
- 41 (8) With respect to injuries occurring on and after July 1, 2001,
42 **and before July 1, 2003**, for each degree of permanent

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1 impairment from one (1) to ten (10), one thousand three hundred
 2 dollars (\$1,300) per degree; for each degree of permanent
 3 impairment from eleven (11) to thirty-five (35), one thousand five
 4 hundred dollars (\$1,500) per degree; for each degree of
 5 permanent impairment from thirty-six (36) to fifty (50), two
 6 thousand four hundred dollars (\$2,400) per degree; for each
 7 degree of permanent impairment above fifty (50), three thousand
 8 dollars (\$3,000) per degree.

9 **(9) With respect to injuries occurring on and after July 1,**
 10 **2003, and before July 1, 2004, for each degree of permanent**
 11 **impairment from one (1) to ten (10), two thousand fifty-six**
 12 **dollars (\$2,056) per degree; for each degree of permanent**
 13 **impairment from eleven (11) to thirty-five (35), two thousand**
 14 **seven hundred six dollars (\$2,706) per degree; for each degree**
 15 **of permanent impairment from thirty-six (36) to fifty (50),**
 16 **three thousand three hundred six dollars (\$3,306) per degree;**
 17 **for each degree of permanent impairment above fifty (50),**
 18 **three thousand nine hundred six dollars (\$3,906) per degree.**

19 **(10) With respect to injuries occurring on and after July 1,**
 20 **2004, for each degree of permanent impairment from one (1)**
 21 **to ten (10), two thousand four hundred six dollars (\$2,406) per**
 22 **degree; for each degree of permanent impairment from eleven**
 23 **(11) to thirty-five (35), three thousand eighty-one dollars**
 24 **(\$3,081) per degree; for each degree of permanent**
 25 **impairment from thirty-six (36) to fifty (50), three thousand**
 26 **seven hundred eighty-one dollars (\$3,781) per degree; for**
 27 **each degree of permanent impairment above fifty (50), four**
 28 **thousand five hundred thirty-one dollars (\$4,531) per degree.**

29 (e) The average weekly wages used in the determination of
 30 compensation for permanent partial impairment under subsections (c)
 31 and (d) shall not exceed the following:

- 32 (1) With respect to injuries occurring on or after July 1, 1991, and
 33 before July 1, 1992, four hundred ninety-two dollars (\$492).
- 34 (2) With respect to injuries occurring on or after July 1, 1992, and
 35 before July 1, 1993, five hundred forty dollars (\$540).
- 36 (3) With respect to injuries occurring on or after July 1, 1993, and
 37 before July 1, 1994, five hundred ninety-one dollars (\$591).
- 38 (4) With respect to injuries occurring on or after July 1, 1994, and
 39 before July 1, 1997, six hundred forty-two dollars (\$642).
- 40 (5) With respect to injuries occurring on or after July 1, 1997, and
 41 before July 1, 1998, six hundred seventy-two dollars (\$672).
- 42 (6) With respect to injuries occurring on or after July 1, 1998, and

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- 1 before July 1, 1999, seven hundred two dollars (\$702).
- 2 (7) With respect to injuries occurring on or after July 1, 1999, and
- 3 before July 1, 2000, seven hundred thirty-two dollars (\$732).
- 4 (8) With respect to injuries occurring on or after July 1, 2000, and
- 5 before July 1, 2001, seven hundred sixty-two dollars (\$762).
- 6 (9) With respect to injuries occurring on or after July 1, 2001, and
- 7 before July 1, 2002, eight hundred twenty-two dollars (\$822).
- 8 (10) With respect to injuries occurring on or after July 1, 2002,
- 9 **and before July 1, 2003, eight hundred eighty-two dollars**
- 10 **(\$882).**
- 11 **(11) With respect to injuries occurring on or after July 1,**
- 12 **2003, and before July 1, 2004, nine hundred forty-eight**
- 13 **dollars (\$948).**
- 14 **(12) With respect to injuries occurring on or after July 1,**
- 15 **2004, one thousand fourteen dollars (\$1,014).**
- 16 **(f) With respect to injuries occurring on or after July 1, 2003,**
- 17 **each payment of compensation allowed under this section is**
- 18 **reduced or increased as provided in IC 22-3-2-8.**
- 19 SECTION 20. IC 22-3-3-13, AS AMENDED BY P.L.202-2001,
- 20 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 21 JULY 1, 2003]: Sec. 13. (a) As used in this section, "board" refers to
- 22 the worker's compensation board created under IC 22-3-1-1.
- 23 (b) If an employee who from any cause, had lost, or lost the use of,
- 24 one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and
- 25 in a subsequent industrial accident becomes permanently and totally
- 26 disabled by reason of the loss, or loss of use of, another such member
- 27 or eye, the employer shall be liable only for the compensation payable
- 28 for such second injury. However, in addition to such compensation and
- 29 after the completion of the payment therefor, the employee shall be
- 30 paid the remainder of the compensation that would be due for such
- 31 total permanent disability out of a special fund known as the second
- 32 injury fund, and created in the manner described in subsection (c).
- 33 (c) Whenever the board determines under the procedures set forth
- 34 in subsection (d) that an assessment is necessary to ensure that fund
- 35 beneficiaries, including applicants under section 4(e) of this chapter,
- 36 continue to receive compensation in a timely manner for a reasonable
- 37 prospective period, the board shall send notice not later than October
- 38 1 in any year to:
- 39 (1) all insurance carriers and other entities insuring or providing
- 40 coverage to employers who are or may be liable under this article
- 41 to pay compensation for personal injuries to or the death of their
- 42 employees under this article; and

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1 (2) each employer carrying the employer's own risk;
 2 stating that an assessment is necessary. After June 30, 1999, the board
 3 may conduct an assessment under this subsection not more than one (1)
 4 time annually. Every insurance carrier and other entity insuring or
 5 providing coverage to employers who are or may be liable under this
 6 article to pay compensation for personal injuries to or death of their
 7 employees under this article and every employer carrying the
 8 employer's own risk, shall, within thirty (30) days of the board sending
 9 notice under this subsection, pay to the worker's compensation board
 10 for the benefit of the fund an assessed amount that may not exceed ~~two~~
 11 **three** and one-half percent (~~2.5%~~) (**3.5%**) of the total amount of all
 12 worker's compensation paid to injured employees or their beneficiaries
 13 under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding
 14 the due date of such payment. For the purposes of calculating the
 15 assessment under this subsection, the board may consider payments for
 16 temporary total disability, temporary partial disability, permanent total
 17 impairment, permanent partial impairment, or death of an employee.
 18 The board may not consider payments for medical benefits in
 19 calculating an assessment under this subsection. ~~If the amount to the~~
 20 ~~credit of the second injury fund on or before October 1 of any year~~
 21 ~~exceeds one million dollars (\$1,000,000), the assessment allowed~~
 22 ~~under this subsection shall not be assessed or collected during the~~
 23 ~~ensuing year. But when on or before October 1 of any year the amount~~
 24 ~~to the credit of the fund is less than one million dollars (\$1,000,000),~~
 25 ~~the payments of not more than two and one-half percent (2.5%) of the~~
 26 ~~total amount of all worker's compensation paid to injured employees or~~
 27 ~~their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar~~
 28 ~~year next preceding that date shall be resumed and paid into the fund.~~
 29 The board may not use an assessment rate greater than twenty-five
 30 hundredths of one percent (0.25%) above the amount recommended by
 31 the study performed before the assessment.

32 (d) The board shall enter into a contract with an actuary or another
 33 qualified firm that has experience in calculating worker's compensation
 34 liabilities. Not later than September 1 of each year, the actuary or other
 35 qualified firm shall calculate the recommended funding level of the
 36 fund based on the previous year's claims and inform the board of the
 37 results of the calculation. If the amount to the credit of the fund is less
 38 than the amount required under subsection (c), the board may conduct
 39 an assessment under subsection (c). The board shall pay the costs of the
 40 contract under this subsection with money in the fund.

41 (e) An assessment collected under subsection (c) on an employer
 42 who is not self-insured must be assessed through a surcharge based on

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1 the employer's premium. An assessment collected under subsection (c)
 2 does not constitute an element of loss, but for the purpose of collection
 3 shall be treated as a separate cost imposed upon insured employers. A
 4 premium surcharge under this subsection must be collected at the same
 5 time and in the same manner in which the premium for coverage is
 6 collected, and must be shown as a separate amount on a premium
 7 statement. A premium surcharge under this subsection must be
 8 excluded from the definition of premium for all purposes, including the
 9 computation of agent commissions or premium taxes. However, an
 10 insurer may cancel a worker's compensation policy for nonpayment of
 11 the premium surcharge. A cancellation under this subsection must be
 12 carried out under the statutes applicable to the nonpayment of
 13 premiums.

14 (f) The sums shall be paid by the board to the treasurer of state, to
 15 be deposited in a special account known as the second injury fund. The
 16 funds are not a part of the general fund of the state. Any balance
 17 remaining in the account at the end of any fiscal year shall not revert
 18 to the general fund. The funds shall be used only for the payment of
 19 awards of compensation ~~and expense of medical examinations or~~
 20 ~~treatment made and as~~ ordered by the board and chargeable against the
 21 fund pursuant to this section, and shall be paid for that purpose by the
 22 treasurer of state upon award or order of the board.

23 (g) If an employee who is entitled to compensation under IC 22-3-2
 24 through IC 22-3-6 either:

- 25 (1) exhausts the maximum benefits under section 22 of this
 26 chapter without having received the full amount of award granted
 27 to the employee under section 10 of this chapter; or
 28 (2) exhausts the employee's benefits under section 10 of this
 29 chapter;

30 then such employee may apply to the board, who may award the
 31 employee compensation from the second injury fund established by this
 32 section, as follows under subsection (h).

33 (h) An employee who has exhausted the employee's maximum
 34 ~~benefits~~ **compensation** under section 10 of this chapter may be
 35 awarded additional compensation equal to sixty-six and two-thirds
 36 percent (66 2/3%) of the employee's average weekly wage at the time
 37 of the employee's injury, not to exceed the maximum then applicable
 38 under section 22 of this chapter, for a period of not to exceed one
 39 hundred fifty (150) weeks upon competent evidence sufficient to
 40 establish:

- 41 (1) that the employee is totally and permanently disabled from
 42 causes and conditions of which there are or have been objective

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1 conditions and symptoms proven that are not within the physical
2 or mental control of the employee; and
3 (2) that the employee is unable to support the employee in any
4 gainful employment, not associated with rehabilitative or
5 vocational therapy.

6 (i) The additional award may be renewed during the employee's total
7 and permanent disability after appropriate hearings by the board for
8 successive periods not to exceed one hundred fifty (150) weeks each.
9 The provisions of this section apply only to injuries occurring
10 subsequent to April 1, 1950, for which awards have been or are in the
11 future made by the board under section 10 of this chapter. Section 16
12 of this chapter does not apply to compensation awarded from the
13 second injury fund under this section.

14 (j) All insurance carriers subject to an assessment under this section
15 are required to provide to the board:

- 16 (1) not later than January 31 each calendar year; and
 - 17 (2) not later than thirty (30) days after a change occurs;
- 18 the name, address, and electronic mail address of a representative
19 authorized to receive the notice of an assessment.

20 **(k) Each:**
21 **(1) insurance carrier or other entity insuring or providing**
22 **coverage to an employer that is or may be liable to pay**
23 **compensation for personal injuries to or for death of the**
24 **employer's employees under this article; and**
25 **(2) employer carrying the employer's own risk;**
26 **that does not comply with this section is subject to a fine of two**
27 **hundred fifty dollars (\$250) that shall be paid into the second**
28 **injury fund created under subsection (b).**

29 **(l) In addition to assessing the fine provided under subsection**
30 **(k), the board shall refer an insurance carrier that does not comply**
31 **with this section to the department of insurance for administrative**
32 **action for committing an unfair or a deceptive act and practice**
33 **under IC 27-4-1.**

34 SECTION 21. IC 22-3-3-22, AS AMENDED BY P.L.31-2000,
35 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2003]: Sec. 22. (a) In computing the compensation under this
37 law with respect to injuries occurring on and after April 1, 1963, and
38 prior to April 1, 1965, the average weekly wages shall be considered
39 to be not more than seventy dollars (\$70) nor less than thirty dollars
40 (\$30). In computing the compensation under this law with respect to
41 injuries occurring on and after April 1, 1965, and prior to April 1,
42 1967, the average weekly wages shall be considered to be not more

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1 than seventy-five dollars (\$75) and not less than thirty dollars (\$30). In
2 computing the compensation under this law with respect to injuries
3 occurring on and after April 1, 1967, and prior to April 1, 1969, the
4 average weekly wages shall be considered to be not more than
5 eighty-five dollars (\$85) and not less than thirty-five dollars (\$35). In
6 computing the compensation under this law with respect to injuries
7 occurring on and after April 1, 1969, and prior to July 1, 1971, the
8 average weekly wages shall be considered to be not more than
9 ninety-five dollars (\$95) and not less than thirty-five dollars (\$35). In
10 computing the compensation under this law with respect to injuries
11 occurring on and after July 1, 1971, and prior to July 1, 1974, the
12 average weekly wages shall be considered to be: (A) Not more than: (1)
13 one hundred dollars (\$100) if no dependents; (2) one hundred five
14 dollars (\$105) if one (1) dependent; (3) one hundred ten dollars (\$110)
15 if two (2) dependents; (4) one hundred fifteen dollars (\$115) if three
16 (3) dependents; (5) one hundred twenty dollars (\$120) if four (4)
17 dependents; and (6) one hundred twenty-five dollars (\$125) if five (5)
18 or more dependents; and (B) Not less than thirty-five dollars (\$35). In
19 computing compensation for temporary total disability, temporary
20 partial disability, and total permanent disability under this law with
21 respect to injuries occurring on and after July 1, 1974, and before July
22 1, 1976, the average weekly wages shall be considered to be (A) not
23 more than one hundred thirty-five dollars (\$135), and (B) not less than
24 seventy-five dollars (\$75). However, the weekly compensation payable
25 shall in no case exceed the average weekly wages of the employee at
26 the time of the injury. In computing compensation for temporary total
27 disability, temporary partial disability and total permanent disability
28 under this law with respect to injuries occurring on and after July 1,
29 1976, and before July 1, 1977, the average weekly wages shall be
30 considered to be (1) not more than one hundred fifty-six dollars (\$156)
31 and (2) not less than seventy-five dollars (\$75). However, the weekly
32 compensation payable shall not exceed the average weekly wages of
33 the 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, 1977, and before July 1, 1979, the average weekly wages are
37 considered to be (1) not more than one hundred eighty dollars (\$180);
38 and (2) not less than seventy-five dollars (\$75). However, the weekly
39 compensation payable may not exceed the average weekly wages of the
40 employee at the time of the injury. In computing compensation for
41 temporary total disability, temporary partial disability, and total
42 permanent disability, with respect to injuries occurring on and after

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1 July 1, 1979, and before July 1, 1980, the average weekly wages are
 2 considered to be (1) not more than one hundred ninety-five dollars
 3 (\$195), and (2) not less than seventy-five dollars (\$75). However, the
 4 weekly compensation payable shall not exceed the average weekly
 5 wages of the employee at the time of the injury. In computing
 6 compensation for temporary total disability, temporary partial
 7 disability, and total permanent disability, with respect to injuries
 8 occurring on and after July 1, 1980, and before July 1, 1983, the
 9 average weekly wages are considered to be (1) not more than two
 10 hundred ten dollars (\$210), and (2) not less than seventy-five dollars
 11 (\$75). However, the weekly compensation payable shall not exceed the
 12 average weekly wages of the employee at the time of the injury. In
 13 computing compensation for temporary total disability, temporary
 14 partial disability, and total permanent disability, with respect to injuries
 15 occurring on and after July 1, 1983, and before July 1, 1984, the
 16 average weekly wages are considered to be (1) not more than two
 17 hundred thirty-four dollars (\$234) 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, 1984, and before July 1, 1985,
 23 the average weekly wages are considered to be (1) not more than two
 24 hundred forty-nine dollars (\$249) 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, 1985, and before July 1, 1986,
 30 the average weekly wages are considered to be (1) not more than two
 31 hundred sixty-seven dollars (\$267) 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, 1986, and before July 1, 1988,
 37 the average weekly wages are considered to be (1) not more than two
 38 hundred eighty-five dollars (\$285) 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. In computing compensation for temporary total disability,
 42 temporary partial disability, and total permanent disability, with respect

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1 to injuries occurring on and after July 1, 1988, and before July 1, 1989,
2 the average weekly wages are considered to be (1) not more than three
3 hundred eighty-four dollars (\$384) and (2) not less than seventy-five
4 dollars (\$75). However, the weekly compensation payable shall not
5 exceed the average weekly wages of the employee at the time of the
6 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, 1989, and before July 1, 1990, the
10 average weekly wages are considered to be (1) not more than four
11 hundred eleven dollars (\$411) and (2) not less than seventy-five dollars
12 (\$75). However, the weekly compensation payable shall not exceed the
13 average weekly wages of the employee at the time of the injury.

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

22 In computing compensation for temporary total disability, temporary
23 partial disability, and total permanent disability, with respect to injuries
24 occurring on and after July 1, 1991, and before July 1, 1992, the
25 average weekly wages are considered to be (1) not more than four
26 hundred ninety-two dollars (\$492) and (2) not less than seventy-five
27 dollars (\$75). However, the weekly compensation payable shall not
28 exceed the average weekly wages of the employee at the time of the
29 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, 1992, and before July 1, 1993, the
33 average weekly wages are considered to be (1) not more than five
34 hundred forty dollars (\$540) and (2) not less than seventy-five dollars
35 (\$75). However, the weekly compensation payable shall not exceed the
36 average weekly wages of the employee at the time of the injury.

37 In computing compensation for temporary total disability, temporary
38 partial disability, and total permanent disability, with respect to injuries
39 occurring on and after July 1, 1993, and before July 1, 1994, the
40 average weekly wages are considered to be (1) not more than five
41 hundred ninety-one dollars (\$591) and (2) not less than seventy-five
42 dollars (\$75). However, the weekly compensation payable shall not

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1 exceed the average weekly wages of the employee at the time of the
2 injury.

3 In computing compensation for temporary total disability, temporary
4 partial disability, and total permanent disability, with respect to injuries
5 occurring on and after July 1, 1994, and before July 1, 1997, the
6 average weekly wages are considered to be (1) not more than six
7 hundred forty-two dollars (\$642) and (2) not less than seventy-five
8 dollars (\$75). However, the weekly compensation payable shall not
9 exceed the average weekly wages of the employee at the time of the
10 injury.

11 (b) In computing compensation for temporary total disability,
12 temporary partial disability, and total permanent disability, the average
13 weekly wages are considered to be:

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

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

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

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

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

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

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

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

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

27 (4) with respect to injuries occurring on and after July 1, 2000,
28 and before July 1, 2001:

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

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

31 (5) with respect to injuries occurring on and after July 1, 2001,
32 and before July 1, 2002:

33 (A) not more than eight hundred twenty-two dollars (\$822);
34 and

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

36 (6) with respect to injuries occurring on and after July 1, 2002,
37 **and before July 1, 2003:**

38 (A) not more than eight hundred eighty-two dollars (\$882);
39 and

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

41 (7) **with respect to injuries occurring on and after July 1,**
42 **2003, and before July 1, 2004:**

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- 1 **(A) not more than nine hundred forty-eight dollars (\$948);**
- 2 **and**
- 3 **(B) not less than two hundred six dollars (\$206); and**
- 4 **(8) with respect to injuries occurring on and after July 1,**
- 5 **2004:**
- 6 **(A) not more than one thousand fourteen dollars (\$1,014);**
- 7 **and**
- 8 **(B) not less than two hundred six dollars (\$206).**

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

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

17 (d) With respect to any injury occurring on and after April 1, 1955,
 18 and prior to April 1, 1957, the maximum compensation exclusive of
 19 medical benefits, which shall be paid for an injury under any provisions
 20 of this law or under any combination of its provisions shall not exceed
 21 twelve thousand five hundred dollars (\$12,500) in any case. With
 22 respect to any injury occurring on and after April 1, 1957 and prior to
 23 April 1, 1963, the maximum compensation exclusive of medical
 24 benefits, which shall be paid for an injury under any provision of this
 25 law or under any combination of its provisions shall not exceed fifteen
 26 thousand dollars (\$15,000) in any case. With respect to any injury
 27 occurring on and after April 1, 1963, and prior to April 1, 1965, the
 28 maximum compensation exclusive of medical benefits, which shall be
 29 paid for an injury under any provision of this law or under any
 30 combination of its provisions shall not exceed sixteen thousand five
 31 hundred dollars (\$16,500) in any case. With respect to any injury
 32 occurring on and after April 1, 1965, and prior to April 1, 1967, the
 33 maximum compensation exclusive of medical benefits which shall be
 34 paid for any injury under any provision of this law or any combination
 35 of provisions shall not exceed twenty thousand dollars (\$20,000) in any
 36 case. With respect to any injury occurring on and after April 1, 1967,
 37 and prior to July 1, 1971, the maximum compensation exclusive of
 38 medical benefits which shall be paid for an injury under any provision
 39 of this law or any combination of provisions shall not exceed
 40 twenty-five thousand dollars (\$25,000) in any case. With respect to any
 41 injury occurring on and after July 1, 1971, and prior to July 1, 1974, the
 42 maximum compensation exclusive of medical benefits which shall be

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1 paid for any injury under any provision of this law or any combination
2 of provisions shall not exceed thirty thousand dollars (\$30,000) in any
3 case. With respect to any injury occurring on and after July 1, 1974,
4 and before July 1, 1976, the maximum compensation exclusive of
5 medical benefits which shall be paid for an injury under any provision
6 of this law or any combination of provisions shall not exceed forty-five
7 thousand dollars (\$45,000) in any case. With respect to an injury
8 occurring on and after July 1, 1976, and before July 1, 1977, the
9 maximum compensation, exclusive of medical benefits, which shall be
10 paid for any injury under any provision of this law or any combination
11 of provisions shall not exceed fifty-two thousand dollars (\$52,000) in
12 any case. With respect to any injury occurring on and after July 1,
13 1977, and before July 1, 1979, the maximum compensation, exclusive
14 of medical benefits, which may be paid for an injury under any
15 provision of this law or any combination of provisions may not exceed
16 sixty thousand dollars (\$60,000) in any case. With respect to any injury
17 occurring on and after July 1, 1979, and before July 1, 1980, the
18 maximum compensation, exclusive of medical benefits, which may be
19 paid for an injury under any provisions of this law or any combination
20 of provisions may not exceed sixty-five thousand dollars (\$65,000) in
21 any case. With respect to any injury occurring on and after July 1,
22 1980, and before July 1, 1983, the maximum compensation, exclusive
23 of medical benefits, which may be paid for an injury under any
24 provisions of this law or any combination of provisions may not exceed
25 seventy thousand dollars (\$70,000) in any case. With respect to any
26 injury occurring on and after July 1, 1983, and before July 1, 1984, the
27 maximum compensation, exclusive of medical benefits, which may be
28 paid for an injury under any provisions of this law or any combination
29 of provisions may not exceed seventy-eight thousand dollars (\$78,000)
30 in any case. With respect to any injury occurring on and after July 1,
31 1984, and before July 1, 1985, the maximum compensation, exclusive
32 of medical benefits, which may be paid for an injury under any
33 provisions of this law or any combination of provisions may not exceed
34 eighty-three thousand dollars (\$83,000) in any case. With respect to
35 any injury occurring on and after July 1, 1985, and before July 1, 1986,
36 the maximum compensation, exclusive of medical benefits, which may
37 be paid for an injury under any provisions of this law or any
38 combination of provisions may not exceed eighty-nine thousand dollars
39 (\$89,000) in any case. With respect to any injury occurring on and after
40 July 1, 1986, and before July 1, 1988, the maximum compensation,
41 exclusive of medical benefits, which may be paid for an injury under
42 any provisions of this law or any combination of provisions may not

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1 exceed ninety-five thousand dollars (\$95,000) in any case. With respect
2 to any injury occurring on and after July 1, 1988, and before July 1,
3 1989, the maximum compensation, exclusive of medical benefits,
4 which may be paid for an injury under any provisions of this law or any
5 combination of provisions may not exceed one hundred twenty-eight
6 thousand dollars (\$128,000) in any case.

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

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

17 With respect to any injury occurring on and after July 1, 1991, and
18 before July 1, 1992, the maximum compensation, exclusive of medical
19 benefits, that may be paid for an injury under any provisions of this law
20 or any combination of provisions may not exceed one hundred
21 sixty-four thousand dollars (\$164,000) in any case.

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

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

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

37 (e) **Subject to IC 22-3-2-8**, the maximum compensation, exclusive
38 of medical benefits, that may be paid for an injury under any provision
39 of this law or any combination of provisions may not exceed the
40 following amounts in any case:

- 41 (1) With respect to an injury occurring on and after July 1, 1997,
42 and before July 1, 1998, two hundred twenty-four thousand

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- dollars (\$224,000).
- (2) With respect to an injury occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars (\$234,000).
- (3) With respect to an injury occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars (\$244,000).
- (4) With respect to an injury occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars (\$254,000).
- (5) With respect to an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars (\$274,000).
- (6) With respect to an injury occurring on and after July 1, 2002, **and before July 1, 2003**, two hundred ninety-four thousand dollars (\$294,000).
- (7) With respect to an injury occurring on or after July 1, 2003, the total of one hundred twenty-five (125) weeks of temporary total disability compensation as set forth in section 8 of this chapter, plus one hundred (100) degrees of permanent partial impairment as set forth in section 10 of this chapter.**

SECTION 22. IC 22-3-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The power and jurisdiction of the worker's compensation board over each case shall be continuing and from time to time it may, upon its own motion or upon the application of either party, on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in IC 22-3-2 through IC 22-3-6.

(b) Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder.

(c) The board shall not **have jurisdiction to** make any ~~such~~ modification upon its own motion ~~nor shall or upon~~ any application ~~therefor be~~ filed by either party after the expiration of two (2) years from the ~~last day for which compensation was paid under the original~~ **date of the most recent** award made either by agreement or upon hearing. ~~except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day~~

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1 ~~for which compensation was paid.~~ The board may at any time correct
 2 any clerical error in any finding or award.

3 SECTION 23. IC 22-3-3-33 IS ADDED TO THE INDIANA CODE
 4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 5 1, 2003]: **Sec. 33. (a) If an employee:**

6 **(1) receives an injury that results in a temporary total
 7 disability or a temporary partial disability;**

8 **(2) is capable of performing work with permanent limitations
 9 or restrictions that prevent the employee from returning to
 10 the position the employee held before the employee's injury;
 11 and**

12 **(3) is enrolled in a training program approved by:**

13 **(A) the incumbent workers training board established by
 14 IC 22-4-18.3-2; or**

15 **(B) the unemployment insurance board created by
 16 IC 22-4-18-2;**

17 **the employee may receive disabled from trade compensation.**

18 **(b) An employee may receive disabled from trade compensation
 19 for a period not to exceed:**

20 **(1) fifty-two (52) consecutive weeks; or**

21 **(2) seventy-eight (78) total weeks.**

22 **(c) An employee is entitled to receive disabled from trade
 23 compensation in a weekly amount equal to the difference between
 24 the employee's average weekly wage from employment at the time
 25 of the injury and the employee's average weekly wage from
 26 employment after the injury with the permanent restrictions or
 27 limitations resulting from the injury.**

28 **(d) The amount of disabled from trade compensation may not
 29 exceed the maximum average weekly wage amounts set forth in
 30 section 22 of this chapter.**

31 **(e) Not later than sixty (60) days after the employee's release to
 32 return to work with restrictions or limitations, the employee must
 33 receive notice from the employer on a form provided by the board
 34 that informs the employee that the employee has been released to
 35 work with limitations or restrictions. The notice must include:**

36 **(1) an explanation of the limitations or restrictions placed on
 37 the employee;**

38 **(2) the amount of disabled from trade compensation the
 39 employee has been awarded; and**

40 **(3) information for the employee regarding the terms of this
 41 section.**

42 **(f) Disabled from trade compensation is in addition to any other**

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compensation awarded to an employee as a result of a temporary total disability or a permanent partial impairment.

(g) An employer may unilaterally convert an award of compensation for a temporary total disability or a temporary partial disability into disabled from trade compensation by filing a copy of the notice required under subsection (e) with the board.

SECTION 24. IC 22-3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The worker's compensation board may make rules not inconsistent with IC 22-3-2 through IC 22-3-6 for carrying out the provisions of IC 22-3-2 through IC 22-3-6. Processes and procedures under IC 22-3-2 through IC 22-3-6 shall be as summary and simple as reasonably may be. The board or any member of the board shall have the power for the purpose of IC 22-3-2 through IC 22-3-6 to subpoena witnesses, administer or cause to have administered oaths, and to examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute.

(b) The county sheriff shall serve all subpoenas of the board **and magistrates appointed under IC 22-3-1-1** and shall receive the same fees as provided by law for like service in civil actions. Each witness who appears in obedience to such subpoenas of the board shall receive for attendance the fees and mileage for witnesses in civil cases in the courts.

(c) The circuit or superior court shall, on application of the board or any member of the board, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

SECTION 25. IC 22-3-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If the employer and the injured employee or the injured employee's dependents disagree in regard to the compensation payable under IC 22-3-2 through IC 22-3-6 or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or to the amount to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute.

(b) Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the employee, employer, and attorneys of record in the manner prescribed

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1 by the board of the time and place of all hearings and requests for
2 continuances. The hearing of all claims for compensation, on account
3 of injuries occurring within the state, shall be held in the county in
4 which the injury occurred, **or** in any adjoining county, except when the
5 parties consent to a hearing elsewhere. Claims assigned to an
6 individual board member that are considered to be of an emergency
7 nature by that board member, may be heard in any county within the
8 board member's jurisdiction.

9 (c) All disputes arising under IC 22-3-2 through IC 22-3-6, if not
10 settled by the agreement of the parties interested therein, with the
11 approval of the board, shall be determined by the board.

12 SECTION 26. IC 22-3-4-6 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The board by any or
14 all of its members **or magistrates appointed under IC 22-3-1-1** shall
15 hear the parties at issue, their representatives and witnesses, and shall
16 determine the dispute in a summary manner. The award shall be filed
17 with the record of proceedings, and a copy thereof shall immediately
18 be sent to each of the employee, employer, and attorney of record in the
19 dispute.

20 SECTION 27. IC 22-3-4-10 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. In all proceedings
22 before the worker's compensation board or in a court under IC 22-3-2
23 through IC 22-3-6, the costs shall be awarded and taxed as provided by
24 law in ordinary civil actions in the circuit court. **Prejudgment interest**
25 **shall be awarded at a rate of ten percent (10%) per year, accruing**
26 **from the date of filing of the application of adjustment of claim as**
27 **determined under section 5(a) of this chapter.**

28 SECTION 28. IC 22-3-6-1, AS AMENDED BY P.L.202-2001,
29 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2003]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the
31 context otherwise requires:

32 (a) "Employer" includes the state and any political subdivision, any
33 municipal corporation within the state, any individual or the legal
34 representative of a deceased individual, firm, association, limited
35 liability company, or corporation or the receiver or trustee of the same,
36 using the services of another for pay. A parent corporation and its
37 subsidiaries shall each be considered joint employers of the
38 corporation's, the parent's, or the subsidiaries' employees for purposes
39 of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of
40 employees shall each be considered joint employers of the employees
41 provided by the lessor to the lessee for purposes of IC 22-3-2-6 and
42 IC 22-3-3-31. If the employer is insured, the term includes the

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1 employer's insurer so far as applicable. However, the inclusion of an
2 employer's insurer within this definition does not allow an employer's
3 insurer to avoid payment for services rendered to an employee with the
4 approval of the employer. The term also includes an employer that
5 provides on-the-job training under the federal School to Work
6 Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in
7 IC 22-3-2-2.5.

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

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

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

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

34 (4) An owner of a sole proprietorship may elect to include the
35 owner as an employee under IC 22-3-2 through IC 22-3-6 if the
36 owner is actually engaged in the proprietorship business. If the
37 owner makes this election, the owner must serve upon the owner's
38 insurance carrier and upon the board written notice of the
39 election. No owner of a sole proprietorship may be considered an
40 employee under IC 22-3-2 through IC 22-3-6 until the notice has
41 been received. If the owner of a sole proprietorship is an
42 independent contractor in the construction trades and does not

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1 make the election provided under this subdivision, the owner
2 must obtain an affidavit of exemption under IC 22-3-2-14.5.

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

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

16 (A) they are licensed real estate agents;

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

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

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

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

38 (9) A member or manager in a limited liability company may elect
39 to include the member or manager as an employee under
40 IC 22-3-2 through IC 22-3-6 if the member or manager is actually
41 engaged in the limited liability company business. If a member or
42 manager makes this election, the member or manager must serve

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1 upon the member's or manager's insurance carrier and upon the
2 board written notice of the election. A member or manager may
3 not be considered an employee under IC 22-3-2 through IC 22-3-6
4 until the notice has been received.

5 (10) An unpaid participant under the federal School to Work
6 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the
7 extent set forth in IC 22-3-2-2.5.

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

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

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

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

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

42 (d) "Average weekly wages" means the earnings of the injured

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1 employee in the employment in which the employee was working at the
 2 time of the injury during the period of fifty-two (52) weeks
 3 immediately preceding the date of injury, divided by fifty-two (52),
 4 except as follows:

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

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

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

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

- 33 (A) the student employee's hourly wage rate; multiplied by
- 34 (B) forty (40) hours.

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

37 **(5) In computing the average weekly wage for an employee**
 38 **who:**

- 39 **(A) has sustained a compensable occupational disease;**
- 40 **(B) has returned to work; and**
- 41 **(C) sustains a later period of disability due to that**
 42 **occupational disease after June 30, 2003;**



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1 **the average weekly wage for the later period of disability shall**
 2 **be determined based on the average weekly wage at the time**
 3 **of that disability, subject to the maximum average weekly**
 4 **wage in effect as of the last day worked, computed as set forth**
 5 **in IC 22-3-3-22.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 percentile in the same community for like services or products.

2 SECTION 29. IC 22-3-7-2.5, AS ADDED BY P.L.235-1999,
3 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2003]: Sec. 2.5. (a) As used in this section, "school to work
5 student" refers to a student participating in on-the-job training under
6 the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).

7 (b) A school to work student is entitled to the following
8 compensation and benefits under this chapter:

9 (1) Medical benefits.

10 (2) Permanent partial impairment compensation under section 16
11 of this chapter. Permanent partial impairment compensation for
12 a school to work student shall be paid in a lump sum upon
13 agreement or final award.

14 (3) In the case that death results from the injury:

15 (A) death benefits in a lump sum amount of one hundred
16 seventy-five thousand dollars (\$175,000), **subject to section**
17 **21 of this chapter**, payable upon agreement or final award to
18 any dependents of the student under sections 11 through 14 of
19 this chapter, or, if the student has no dependents, to the
20 student's parents; and

21 (B) burial compensation under section 15 of this chapter.

22 (c) For the sole purpose of modifying an award under section 27 of
23 this chapter, a school to work student's average weekly wage is
24 presumed to be equal to the federal minimum wage.

25 (d) A school to work student is not entitled to the following
26 compensation under this chapter:

27 (1) Temporary total disability compensation under section 16 of
28 this chapter.

29 (2) Temporary partial disability compensation under section 19 of
30 this chapter.

31 (e) Except for remedies available under IC 5-2-6.1, recovery under
32 subsection (b) is the exclusive right and remedy for:

33 (1) a school to work student; and

34 (2) the personal representatives, dependents, or next of kin, at
35 common law or otherwise, of a school to work student;

36 on account of disablement or death by occupational disease arising out
37 of and in the course of school to work employment.

38 SECTION 30. IC 22-3-7-16, AS AMENDED BY P.L.1-2001,
39 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2003]: Sec. 16. (a) Compensation shall be allowed on account
41 of disablement from occupational disease resulting in only temporary
42 total disability to work or temporary partial disability to work

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1 beginning with the eighth day of such disability except for the medical
 2 benefits provided for in section 17 of this chapter. Compensation shall
 3 be allowed for the first seven (7) calendar days only as provided in this
 4 section. The first weekly installment of compensation for temporary
 5 disability is due fourteen (14) days after the disability begins. Not later
 6 than fifteen (15) days from the date that the first installment of
 7 compensation is due, the employer or the employer's insurance carrier
 8 shall tender to the employee or to the employee's dependents, with all
 9 compensation due, a properly prepared compensation agreement in a
 10 form prescribed by the board. Whenever an employer or the employer's
 11 insurance carrier denies or is not able to determine liability to pay
 12 compensation or benefits, the employer or the employer's insurance
 13 carrier shall notify the worker's compensation board and the employee
 14 in writing on a form prescribed by the worker's compensation board not
 15 later than thirty (30) days after the employer's knowledge of the
 16 claimed disablement. If a determination of liability cannot be made
 17 within thirty (30) days, the worker's compensation board may approve
 18 an additional thirty (30) days upon a written request of the employer or
 19 the employer's insurance carrier that sets forth the reasons that the
 20 determination could not be made within thirty (30) days and states the
 21 facts or circumstances that are necessary to determine liability within
 22 the additional thirty (30) days. More than thirty (30) days of additional
 23 time may be approved by the worker's compensation board upon the
 24 filing of a petition by the employer or the employer's insurance carrier
 25 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 **If a determination of liability is not made within thirty (30) days**
 33 **after the date the disablement begins, and the employer is**
 34 **subsequently determined to be liable to pay compensation, the first**
 35 **installment of compensation must include the accrued weekly**
 36 **compensation and interest at the legal rate of interest specified in**
 37 **IC 24-4.6-1-101 computed from the date fourteen (14) days after**
 38 **the disablement begins.**

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



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

3 (1) the employee has returned to work;

4 (2) the employee has died;

5 (3) the employee has refused to undergo a medical examination
6 under section 20 of this chapter;

7 (4) the employee has received five hundred (500) weeks of
8 temporary total disability benefits or has been paid the maximum
9 compensation allowable under section 19 of this chapter; **or**

10 (5) the employee is unable or unavailable to work for reasons
11 unrelated to the compensable disease; **or**

12 **(6) the employee returns to work with limitations or**
13 **restrictions, and the employer converts temporary total**
14 **disability or temporary partial disability compensation into**
15 **disabled from trade compensation under section 16.5 of this**
16 **chapter.**

17 In all other cases the employer must notify the employee in writing **not**
18 **later than thirty (30) days before the effective date of the**
19 **termination** of the employer's intent to terminate the payment of
20 temporary total disability benefits, and of the availability of
21 employment, if any, on a form approved by the board. If the employee
22 disagrees with the proposed termination, the employee must give
23 written notice of disagreement to the board and the employer within
24 seven (7) days after receipt of the notice of intent to terminate benefits.
25 If the board and employer do not receive a notice of disagreement
26 under this section, the employee's temporary total disability benefits
27 shall be terminated. Upon receipt of the notice of disagreement, the
28 board shall immediately contact the parties, which may be by telephone
29 or other means and attempt to resolve the disagreement. If the board is
30 unable to resolve the disagreement within ten (10) days of receipt of
31 the notice of disagreement, the board shall immediately arrange for an
32 evaluation of the employee by an independent medical examiner. The
33 independent medical examiner shall be selected by mutual agreement
34 of the parties or, if the parties are unable to agree, appointed by the
35 board under IC 22-3-4-11. If the independent medical examiner
36 determines that the employee is no longer temporarily disabled or is
37 still temporarily disabled but can return to employment that the
38 employer has made available to the employee, or if the employee fails
39 or refuses to appear for examination by the independent medical
40 examiner, temporary total disability benefits may be terminated. If
41 either party disagrees with the opinion of the independent medical
42 examiner, the party shall apply to the board for a hearing under section

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1 27 of this chapter.

2 (c) An employer is not required to continue the payment of
3 temporary total disability benefits for more than fourteen (14) days
4 after the employer's proposed termination date unless the independent
5 medical examiner determines that the employee is temporarily disabled
6 and unable to return to any employment that the employer has made
7 available to the employee.

8 (d) If it is determined that as a result of this section temporary total
9 disability benefits were overpaid, the overpayment shall be deducted
10 from any benefits due the employee under this section and, if there are
11 no benefits due the employee or the benefits due the employee do not
12 equal the amount of the overpayment, the employee shall be
13 responsible for paying any overpayment which cannot be deducted
14 from benefits due the employee.

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

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

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

42 For disablements occurring on and after July 1, 1976, from

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1 occupational disease resulting in temporary total disability for any work
 2 there shall be paid to the disabled employee during the temporary total
 3 disability weekly compensation equal to sixty-six and two-thirds
 4 percent (66 2/3%) of the employee's average weekly wages, as defined
 5 in section 19 of this chapter, for a period not to exceed five hundred
 6 (500) weeks. Compensation shall be allowed for the first seven (7)
 7 calendar days only if the disability continues for longer than twenty-one
 8 (21) days.

9 (f) For disablements occurring on and after April 1, 1951, and prior
 10 to July 1, 1971, from occupational disease resulting in temporary
 11 partial disability for work there shall be paid to the disabled employee
 12 during such disability a weekly compensation equal to sixty percent
 13 (60%) of the difference between the employee's average weekly wages
 14 and the weekly wages at which the employee is actually employed after
 15 the disablement, for a period not to exceed three hundred (300) weeks.
 16 Compensation shall be allowed for the first seven (7) calendar days
 17 only if the disability continues for longer than twenty-eight (28) days.
 18 In case of partial disability after the period of temporary total disability,
 19 the later period shall be included as part of the maximum period
 20 allowed for partial disability.

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

33 For disablements occurring on and after July 1, 1974, from
 34 occupational disease resulting in temporary partial disability for work
 35 there shall be paid to the disabled employee during such disability a
 36 weekly compensation equal to sixty-six and two-thirds percent (66
 37 2/3%) of the difference between the employee's average weekly wages,
 38 as defined in section 19 of this chapter, and the weekly wages at which
 39 ~~he~~ **the employee** is actually employed after the disablement, for a
 40 period not to exceed three hundred (300) weeks. Compensation shall
 41 be allowed for the first seven (7) calendar days only if the disability
 42 continues for longer than twenty-one (21) days. In case of partial

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1 disability after the period of temporary total disability, the latter period
2 shall be included as a part of the maximum period allowed for partial
3 disability.

4 (g) For disabilities occurring on and after April 1, 1951, and prior
5 to April 1, 1955, from occupational disease in the following schedule,
6 the employee shall receive in lieu of all other compensation, on account
7 of such disabilities, a weekly compensation of sixty percent (60%) of
8 the employee's average weekly wage; for disabilities occurring on and
9 after April 1, 1955, and prior to July 1, 1971, from occupational disease
10 in the following schedule, the employee shall receive in addition to
11 disability benefits not exceeding twenty-six (26) weeks on account of
12 said occupational disease a weekly compensation of sixty percent
13 (60%) of the employee's average weekly wages.

14 For disabilities occurring on and after July 1, 1971, and before July
15 1, 1977, from occupational disease in the following schedule, the
16 employee shall receive in addition to disability benefits not exceeding
17 twenty-six (26) weeks on account of said occupational disease a weekly
18 compensation of sixty percent (60%) of ~~his~~ **the employee's** average
19 weekly wages not to exceed one hundred dollars (\$100) average weekly
20 wages, for the period stated for such disabilities respectively.

21 For disabilities occurring on and after July 1, 1977, and before July
22 1, 1979, from occupational disease in the following schedule, the
23 employee shall receive in addition to disability benefits not exceeding
24 twenty-six (26) weeks on account of the occupational disease a weekly
25 compensation of sixty percent (60%) of the employee's average weekly
26 wages, not to exceed one hundred twenty-five dollars (\$125) average
27 weekly wages, for the period stated for the disabilities.

28 For disabilities occurring on and after July 1, 1979, and before July
29 1, 1988, from occupational disease in the following schedule, the
30 employee shall receive in addition to disability benefits, not exceeding
31 fifty-two (52) weeks on account of the occupational disease, a weekly
32 compensation of sixty percent (60%) of the employee's average weekly
33 wages, not to exceed one hundred twenty-five dollars (\$125) average
34 weekly wages, for the period stated for the disabilities.

35 For disabilities occurring on and after July 1, 1988, and before July
36 1, 1989, from occupational disease in the following schedule, the
37 employee shall receive in addition to disability benefits, not exceeding
38 seventy-eight (78) weeks on account of the occupational disease, a
39 weekly compensation of sixty percent (60%) of the employee's average
40 weekly wages, not to exceed one hundred sixty-six dollars (\$166)
41 average weekly wages, for the period stated for the disabilities.

42 For disabilities occurring on and after July 1, 1989, and before July

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1 1, 1990, from occupational disease in the following schedule, the
2 employee shall receive in addition to disability benefits, not exceeding
3 seventy-eight (78) weeks on account of the occupational disease, a
4 weekly compensation of sixty percent (60%) of the employee's average
5 weekly wages, not to exceed one hundred eighty-three dollars (\$183)
6 average weekly wages, for the period stated for the disabilities.

7 For disabilities occurring on and after July 1, 1990, and before July
8 1, 1991, from occupational disease in the following schedule, the
9 employee shall receive in addition to disability benefits, not exceeding
10 seventy-eight (78) weeks on account of the occupational disease, a
11 weekly compensation of sixty percent (60%) of the employee's average
12 weekly wages, not to exceed two hundred dollars (\$200) average
13 weekly wages, for the period stated for the disabilities.

14 (1) Amputations: For the loss by separation, of the thumb, sixty
15 (60) weeks; of the index finger, forty (40) weeks; of the second
16 finger, thirty-five (35) weeks; of the third or ring finger, thirty
17 (30) weeks; of the fourth or little finger, twenty (20) weeks; of the
18 hand by separation below the elbow, two hundred (200) weeks; of
19 the arm above the elbow joint, two hundred fifty (250) weeks; of
20 the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks;
21 of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15)
22 weeks; of the fifth or little toe, ten (10) weeks; of the foot below
23 the knee joint, one hundred fifty (150) weeks; and of the leg
24 above the knee joint, two hundred (200) weeks. The loss of more
25 than one (1) phalange of a thumb or toe shall be considered as the
26 loss of the entire thumb or toe. The loss of more than two (2)
27 phalanges of a finger shall be considered as the loss of the entire
28 finger. The loss of not more than one (1) phalange of a thumb or
29 toe shall be considered as the loss of one-half (1/2) of the thumb
30 or toe and compensation shall be paid for one-half (1/2) of the
31 period for the loss of the entire thumb or toe. The loss of not more
32 than two (2) phalanges of a finger shall be considered as the loss
33 of one-half (1/2) the finger and compensation shall be paid for
34 one-half (1/2) of the period for the loss of the entire finger.

35 (2) Loss of Use: The total permanent loss of the use of an arm,
36 hand, thumb, finger, leg, foot, toe, or phalange shall be considered
37 as the equivalent of the loss by separation of the arm, hand,
38 thumb, finger, leg, foot, toe, or phalange and the compensation
39 shall be paid for the same period as for the loss thereof by
40 separation.

41 (3) Partial Loss of Use: For the permanent partial loss of the use
42 of an arm, hand, thumb, finger, leg, foot, toe, or phalange,

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1 compensation shall be paid for the proportionate loss of the use of
2 such arm, hand, thumb, finger, leg, foot, toe, or phalange.

3 (4) For disablements for occupational disease resulting in total
4 permanent disability, five hundred (500) weeks.

5 (5) For the loss of both hands, or both feet, or the total sight of
6 both eyes, or any two (2) of such losses resulting from the same
7 disablement by occupational disease, five hundred (500) weeks.

8 (6) For the permanent and complete loss of vision by enucleation
9 of an eye or its reduction to one-tenth (1/10) of normal vision with
10 glasses, one hundred fifty (150) weeks, and for any other
11 permanent reduction of the sight of an eye, compensation shall be
12 paid for a period proportionate to the degree of such permanent
13 reduction without correction or glasses. However, when such
14 permanent reduction without correction or glasses would result in
15 one hundred percent (100%) loss of vision, but correction or
16 glasses would result in restoration of vision, then compensation
17 shall be paid for fifty percent (50%) of such total loss of vision
18 without glasses plus an additional amount equal to the
19 proportionate amount of such reduction with glasses, not to
20 exceed an additional fifty percent (50%).

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

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

27 (9) In all cases of permanent disfigurement, which may impair the
28 future usefulness or opportunities of the employee, compensation
29 in the discretion of the worker's compensation board, not
30 exceeding two hundred (200) weeks, except that no compensation
31 shall be payable under this paragraph where compensation shall
32 be payable under subdivisions (1) through (8). Where
33 compensation for temporary total disability has been paid, this
34 amount of compensation shall be deducted from any
35 compensation due for permanent disfigurement.

36 With respect to disablements in the following schedule occurring on
37 and after July 1, 1991, the employee shall receive in addition to
38 temporary total disability benefits, not exceeding one hundred
39 twenty-five (125) weeks on account of the disablement, compensation
40 in an amount determined under the following schedule to be paid
41 weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the
42 employee's average weekly wages during the fifty-two (52) weeks



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- 1 immediately preceding the week in which the disablement occurred:
- 2 (1) Amputation: For the loss by separation of the thumb, twelve
- 3 (12) degrees of permanent impairment; of the index finger, eight
- 4 (8) degrees of permanent impairment; of the second finger, seven
- 5 (7) degrees of permanent impairment; of the third or ring finger,
- 6 six (6) degrees of permanent impairment; of the fourth or little
- 7 finger, four (4) degrees of permanent impairment; of the hand by
- 8 separation below the elbow joint, forty (40) degrees of permanent
- 9 impairment; of the arm above the elbow, fifty (50) degrees of
- 10 permanent impairment; of the big toe, twelve (12) degrees of
- 11 permanent impairment; of the second toe, six (6) degrees of
- 12 permanent impairment; of the third toe, four (4) degrees of
- 13 permanent impairment; of the fourth toe, three (3) degrees of
- 14 permanent impairment; of the fifth or little toe, two (2) degrees of
- 15 permanent impairment; of separation of the foot below the knee
- 16 joint, thirty-five (35) degrees of permanent impairment; and of the
- 17 leg above the knee joint, forty-five (45) degrees of permanent
- 18 impairment.
- 19 (2) Amputations occurring on or after July 1, 1997: For the loss
- 20 by separation of any of the body parts described in subdivision (1)
- 21 on or after July 1, 1997, the dollar values per degree applying on
- 22 the date of the injury as described in subsection (h) shall be
- 23 multiplied by two (2). However, the doubling provision of this
- 24 subdivision does not apply to a loss of use that is not a loss by
- 25 separation.
- 26 (3) The loss of more than one (1) phalange of a thumb or toe shall
- 27 be considered as the loss of the entire thumb or toe. The loss of
- 28 more than two (2) phalanges of a finger shall be considered as the
- 29 loss of the entire finger. The loss of not more than one (1)
- 30 phalange of a thumb or toe shall be considered as the loss of
- 31 one-half (1/2) of the degrees of permanent impairment for the loss
- 32 of the entire thumb or toe. The loss of not more than one (1)
- 33 phalange of a finger shall be considered as the loss of one-third
- 34 (1/3) of the finger and compensation shall be paid for one-third
- 35 (1/3) of the degrees payable for the loss of the entire finger. The
- 36 loss of more than one (1) phalange of the finger but not more than
- 37 two (2) phalanges of the finger shall be considered as the loss of
- 38 one-half (1/2) of the finger and compensation shall be paid for
- 39 one-half (1/2) of the degrees payable for the loss of the entire
- 40 finger.
- 41 (4) For the loss by separation of both hands or both feet or the
- 42 total sight of both eyes or any two (2) such losses in the same

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- 1 accident, one hundred (100) degrees of permanent impairment.
2 (5) For the permanent and complete loss of vision by enucleation
3 or its reduction to one-tenth (1/10) of normal vision with glasses,
4 thirty-five (35) degrees of permanent impairment.
5 (6) For the permanent and complete loss of hearing in one (1) ear,
6 fifteen (15) degrees of permanent impairment, and in both ears,
7 forty (40) degrees of permanent impairment.
8 (7) For the loss of one (1) testicle, ten (10) degrees of permanent
9 impairment; for the loss of both testicles, thirty (30) degrees of
10 permanent impairment.
11 (8) Loss of use: The total permanent loss of the use of an arm, a
12 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
13 considered as the equivalent of the loss by separation of the arm,
14 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
15 shall be paid in the same amount as for the loss by separation.
16 However, the doubling provision of subdivision (2) does not
17 apply to a loss of use that is not a loss by separation.
18 (9) Partial loss of use: For the permanent partial loss of the use of
19 an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
20 phalange, compensation shall be paid for the proportionate loss of
21 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.
22 (10) For disablements resulting in total permanent disability, the
23 amount payable for impairment or five hundred (500) weeks of
24 compensation, whichever is greater.
25 (11) For any permanent reduction of the sight of an eye less than
26 a total loss as specified in subdivision (5), the compensation shall
27 be paid in an amount proportionate to the degree of a permanent
28 reduction without correction or glasses. However, when a
29 permanent reduction without correction or glasses would result in
30 one hundred percent (100%) loss of vision, then compensation
31 shall be paid for fifty percent (50%) of the total loss of vision
32 without glasses, plus an additional amount equal to the
33 proportionate amount of the reduction with glasses, not to exceed
34 an additional fifty percent (50%).
35 (12) For any permanent reduction of the hearing of one (1) or both
36 ears, less than the total loss as specified in subdivision (6),
37 compensation shall be paid in an amount proportionate to the
38 degree of a permanent reduction.
39 (13) In all other cases of permanent partial impairment,
40 compensation proportionate to the degree of a permanent partial
41 impairment, in the discretion of the worker's compensation board,
42 not exceeding one hundred (100) degrees of permanent

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

(h) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection (d) and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.

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

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

(4) With respect to disablements occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent

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1 impairment from one (1) to ten (10), seven hundred fifty dollars
2 (\$750) per degree; for each degree of permanent impairment from
3 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
4 degree; for each degree of permanent impairment from thirty-six
5 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
6 degree; for each degree of permanent impairment above fifty (50),
7 one thousand seven hundred dollars (\$1,700) per degree.
8 (5) With respect to disablements occurring on and after July 1,
9 1998, and before July 1, 1999, for each degree of permanent
10 impairment from one (1) to ten (10), seven hundred fifty dollars
11 (\$750) per degree; for each degree of permanent impairment from
12 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
13 degree; for each degree of permanent impairment from thirty-six
14 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
15 degree; for each degree of permanent impairment above fifty (50),
16 one thousand seven hundred dollars (\$1,700) per degree.
17 (6) With respect to disablements occurring on and after July 1,
18 1999, and before July 1, 2000, for each degree of permanent
19 impairment from one (1) to ten (10), nine hundred dollars (\$900)
20 per degree; for each degree of permanent impairment from eleven
21 (11) to thirty-five (35), one thousand one hundred dollars
22 (\$1,100) per degree; for each degree of permanent impairment
23 from thirty-six (36) to fifty (50), one thousand six hundred dollars
24 (\$1,600) per degree; for each degree of permanent impairment
25 above fifty (50), two thousand dollars (\$2,000) per degree.
26 (7) With respect to disablements occurring on and after July 1,
27 2000, and before July 1, 2001, for each degree of permanent
28 impairment from one (1) to ten (10), one thousand one hundred
29 dollars (\$1,100) per degree; for each degree of permanent
30 impairment from eleven (11) to thirty-five (35), one thousand
31 three hundred dollars (\$1,300) per degree; for each degree of
32 permanent impairment from thirty-six (36) to fifty (50), two
33 thousand dollars (\$2,000) per degree; for each degree of
34 permanent impairment above fifty (50), two thousand five
35 hundred fifty dollars (\$2,500) per degree.
36 (8) With respect to disablements occurring on and after July 1,
37 2001, **and before July 1, 2003**, for each degree of permanent
38 impairment from one (1) to ten (10), one thousand three hundred
39 dollars (\$1,300) per degree; for each degree of permanent
40 impairment from eleven (11) to thirty-five (35), one thousand five
41 hundred dollars (\$1,500) per degree; for each degree of
42 permanent impairment from thirty-six (36) to fifty (50), two

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thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

(9) With respect to disablements occurring on and after July 1, 2003, and before July 1, 2004, for each degree of permanent impairment from one (1) to ten (10), two thousand fifty-six dollars (\$2,056) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand seven hundred six dollars (\$2,706) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand three hundred six dollars (\$3,306) per degree; for each degree of permanent impairment above fifty (50), three thousand nine hundred six dollars (\$3,906) per degree.

(10) With respect to disablements occurring on and after July 1, 2004, for each degree of permanent impairment from one (1) to ten (10), two thousand four hundred six dollars (\$2,406) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), three thousand eighty-one dollars (\$3,081) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand seven hundred eighty-one dollars (\$3,781) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred thirty-one dollars (\$4,531) per degree.

(i) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (g) and (h) shall not exceed the following:

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

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

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

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

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

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

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- 1 (7) With respect to disablements occurring on or after July 1,
- 2 1999, and before July 1, 2000, seven hundred thirty-two dollars
- 3 (\$732).
- 4 (8) With respect to disablements occurring on or after July 1,
- 5 2000, and before July 1, 2001, seven hundred sixty-two dollars
- 6 (\$762).
- 7 (9) With respect to ~~injuries~~ **disablements** occurring on or after
- 8 July 1, 2001, and before July 1, 2002, eight hundred twenty-two
- 9 dollars (\$822).
- 10 (10) With respect to ~~injuries~~ **disablements** occurring on or after
- 11 July 1, 2002, **and before July 1, 2003**, eight hundred eighty-two
- 12 dollars (\$882).
- 13 **(11) With respect to disablements occurring on or after July**
- 14 **1, 2003, and before July 1, 2004, nine hundred forty-eight**
- 15 **dollars (\$948).**
- 16 **(12) With respect to disablements occurring on or after July**
- 17 **1, 2004, one thousand fourteen dollars (\$1,014).**
- 18 (j) If any employee, only partially disabled, refuses employment
- 19 suitable to ~~his~~ **the employee's** capacity, ~~procured for him;~~ **he the**
- 20 **employee** shall not be entitled to any compensation at any time during
- 21 the continuance of such refusal unless, in the opinion of the worker's
- 22 compensation board, such refusal was justifiable. The employee must
- 23 be served with a notice setting forth the consequences of the refusal
- 24 under this subsection. The notice must be in a form prescribed by the
- 25 worker's compensation board.
- 26 (k) If an employee has sustained a permanent impairment or
- 27 disability from an accidental injury other than an occupational disease
- 28 in another employment than that in which ~~he~~ **the employee** suffered a
- 29 subsequent disability from an occupational disease, such as herein
- 30 specified, the employee shall be entitled to compensation for the
- 31 subsequent disability in the same amount as if the previous impairment
- 32 or disability had not occurred. However, if the permanent impairment
- 33 or disability resulting from an occupational disease for which
- 34 compensation is claimed results only in the aggravation or increase of
- 35 a previously sustained permanent impairment from an occupational
- 36 disease or physical condition regardless of the source or cause of such
- 37 previously sustained impairment from an occupational disease or
- 38 physical condition, the board shall determine the extent of the
- 39 previously sustained permanent impairment from an occupational
- 40 disease or physical condition as well as the extent of the aggravation or
- 41 increase resulting from the subsequent permanent impairment or
- 42 disability, and shall award compensation only for that part of said

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1 occupational disease or physical condition resulting from the
2 subsequent permanent impairment. An amputation of any part of the
3 body or loss of any or all of the vision of one (1) or both eyes caused by
4 an occupational disease shall be considered as a permanent impairment
5 or physical condition.

6 (l) If an employee suffers a disablement from occupational disease
7 for which compensation is payable while the employee is still receiving
8 or entitled to compensation for a previous injury by accident or
9 disability by occupational disease in the same employment, ~~he~~ **the**
10 **employee** shall not at the same time be entitled to compensation for
11 both, unless it be for a permanent injury, such as specified in
12 subsection (g)(1), (g)(4), (g)(5), (g)(8), or (g)(9); but the employee
13 shall be entitled to compensation for that disability and from the time
14 of that disability which will cover the longest period and the largest
15 amount payable under this chapter.

16 (m) If an employee receives a permanent disability from
17 occupational disease such as specified in subsection (g)(1), (g)(4),
18 (g)(5), (g)(8), or (g)(9) after having sustained another such permanent
19 disability in the same employment the employee shall be entitled to
20 compensation for both such disabilities, but the total compensation
21 shall be paid by extending the period and not by increasing the amount
22 of weekly compensation and, when such previous and subsequent
23 permanent disabilities, in combination result in total permanent
24 disability or permanent total impairment, compensation shall be
25 payable for such permanent total disability or impairment, but
26 payments made for the previous disability or impairment shall be
27 deducted from the total payment of compensation due.

28 (n) When an employee has been awarded or is entitled to an award
29 of compensation for a definite period under this chapter for disability
30 from occupational disease, which disablement occurs on and after April
31 1, 1951, and prior to April 1, 1963, and such employee dies from any
32 other cause than such occupational disease, payment of the unpaid
33 balance of such compensation, not exceeding three hundred (300)
34 weeks, shall be made to the employee's dependents of the second and
35 third class as defined in sections 11 through 14 of this chapter, and
36 compensation, not exceeding five hundred (500) weeks, shall be made
37 to the employee's dependents of the first class as defined in sections 11
38 through 14 of this chapter. When an employee has been awarded or is
39 entitled to an award of compensation for a definite period from an
40 occupational disease wherein disablement occurs on and after April 1,
41 1963, and such employee dies from other causes than such
42 occupational disease, payment of the unpaid balance of such

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1 compensation not exceeding three hundred fifty (350) weeks shall be
2 paid to the employee's dependents of the second and third class as
3 defined in sections 11 through 14 of this chapter and compensation, not
4 exceeding five hundred (500) weeks shall be made to the employee's
5 dependents of the first class as defined in sections 11 through 14 of this
6 chapter.

7 (o) Any payment made by the employer to the employee during the
8 period of the employee's disability, or to the employee's dependents,
9 which, by the terms of this chapter, was not due and payable when
10 made, may, subject to the approval of the worker's compensation board,
11 be deducted from the amount to be paid as compensation, but such
12 deduction shall be made from the distal end of the period during which
13 compensation must be paid, except in cases of temporary disability.

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

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

22 Whenever the aggregate payments of compensation, due to any
23 person under eighteen (18) years of age, exceed one hundred dollars
24 (\$100), the payment thereof shall be made to a trustee, appointed by the
25 circuit or superior court, or to a duly qualified guardian, or, upon the
26 order of the worker's compensation board, to a parent or to such minor
27 person. The payment of compensation, due to any person eighteen (18)
28 years of age or over, may be made directly to such person.

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

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

39 (t) **Each payment of compensation due under this section shall**
40 **be reduced or increased as provided in section 21 of this chapter.**

41 SECTION 31. IC 22-3-7-16.1 IS ADDED TO THE INDIANA
42 CODE AS A NEW SECTION TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2003]: Sec. 16.1. (a) As used in this section,
2 "board" refers to the worker's compensation board created by
3 IC 22-3-1-1.

4 (b) If an employee suffers a second disablement from
5 occupational disease resulting in the permanent and total
6 impairment of the employee, the employer is liable only for the
7 compensation payable for the second injury. However, in addition
8 to the compensation payable for the second injury and after the
9 employer completes the payment of the compensation, the
10 employee shall be paid the remainder of the compensation that
11 would be due for the total permanent impairment out of the
12 occupational disease second injury fund.

13 (c) Whenever the board determines under the procedures set
14 forth in subsection (d) that an assessment is necessary to ensure
15 that fund beneficiaries continue to receive compensation in a timely
16 manner for a reasonable prospective period, the board shall send
17 notice not later than October 1 in any year to:

18 (1) all insurance carriers and other entities insuring or
19 providing coverage to employers that are or may be liable
20 under this article to pay compensation for personal injuries to
21 or the death of one (1) of their employees from an
22 occupational disease; and

23 (2) each employer carrying the employer's own risk for
24 personal injuries to or the death of one (1) of its employees
25 from an occupational disease;

26 stating that an assessment is necessary. The board may conduct an
27 assessment under this subsection not more than one (1) time
28 annually. Every insurance carrier insuring employers that are or
29 may be liable under this article to pay compensation for
30 disablement or death from occupational diseases of their employees
31 under this article and every employer carrying the employer's own
32 risk shall, not later than thirty (30) days after receiving notice from
33 the board, pay to the worker's compensation board for the benefit
34 of the occupational disease second injury fund. The payment shall
35 be in a sum equal to three and one-half percent (3.5%) of the total
36 amount of all payments under this chapter for occupational
37 diseases paid to employees with occupational diseases or their
38 beneficiaries under this chapter for the calendar year next
39 preceding the due date of the payment.

40 (d) The board shall enter into a contract with an actuary or
41 another qualified firm that has experience in calculating worker's
42 compensation liabilities. Not later than September 1 of each year,

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1 the actuary or other qualified firm shall calculate the
 2 recommended funding level of the fund based on the previous
 3 year's claims and inform the board of the results of the calculation.
 4 If the amount to the credit of the fund is less than the amount
 5 required under subsection (c), the board may conduct an
 6 assessment under subsection (c). The board shall pay the costs of
 7 the contract under this subsection with money in the fund.

8 (e) An assessment collected under subsection (c) on an employer
 9 that is not self-insured must be assessed through a surcharge based
 10 on the employer's premium. An assessment collected under
 11 subsection (c) does not constitute an element of loss, but for the
 12 purpose of collection shall be treated as a separate cost imposed
 13 upon insured employers. A premium surcharge under this
 14 subsection must be collected at the same time and in the same
 15 manner in which the premium for coverage is collected and must
 16 be shown as a separate amount on a premium statement. A
 17 premium surcharge under this subsection must be excluded from
 18 the definition of premium for all purposes, including the
 19 computation of agent commissions or premium taxes. However, an
 20 insurer may cancel a worker's compensation policy for
 21 nonpayment of the premium surcharge. A cancellation under this
 22 subsection must be carried out under the statutes applicable to the
 23 nonpayment of premiums.

24 (f) The occupational diseases second injury fund is created. The
 25 sums under this section shall be paid by the worker's compensation
 26 board to the treasurer of state, to be deposited in the occupational
 27 diseases second injury fund. The fund is not part of the state
 28 general fund. Any balance remaining in the account at the end of
 29 any fiscal year does not revert to the state general fund. The fund
 30 shall be used only for the payment of awards of compensation
 31 ordered by the board and chargeable against the occupational
 32 diseases second injury fund under this section and shall be paid for
 33 that purpose by the treasurer of state upon award or order of the
 34 board.

35 (g) If an employee who is entitled to compensation under this
 36 chapter either:

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

42 the employee may apply to the worker's compensation board,



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1 which may award the employee compensation from the
2 occupational diseases second injury fund established by this
3 section, as provided under subsection (b).

4 (h) An employee who has exhausted the employee's maximum
5 compensation under section 16 of this chapter may be awarded
6 reasonable amounts of compensation taking into consideration the
7 employee's average weekly wage at the time of the employee's
8 disablement, the number of recipients entitled to compensation
9 from the occupational diseases second injury fund, and the amount
10 of money within the occupational diseases second injury fund at the
11 time of the application, not to exceed the maximum then applicable
12 under section 19 of this chapter, for a period not to exceed one
13 hundred fifty (150) weeks, upon competent evidence sufficient to
14 establish:

15 (1) that the employee is totally and permanently disabled from
16 an occupational disease of which there are or have been
17 objective conditions and symptoms proven that are not within
18 the physical or 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 (i) 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 (j) Each:

27 (1) insurance carrier or other entity insuring or providing
28 coverage to an employer that is or may be liable under this
29 article to pay compensation for personal injuries to or the
30 death of one (1) of the employer's employees from an
31 occupational disease; and

32 (2) employer carrying the employer's own risk for personal
33 injuries to or the death of one (1) of the employer's employees
34 from an occupational disease;

35 that does not comply with this section is subject to a fine of two
36 hundred fifty dollars (\$250) that shall be paid into the occupational
37 diseases second injury fund created under subsection (f).

38 (k) In addition to assessing the fine provided under subsection
39 (j), the board shall refer an insurance carrier that does not comply
40 with this section to the department of insurance for administrative
41 action for committing an unfair or deceptive act and practice
42 under IC 27-4-1.



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1 SECTION 32. IC 22-3-7-16.5 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2003]: Sec. 16.5. (a) If an employee:

- 4 (1) suffers an occupational disease that results in a temporary
- 5 total disability or a temporary partial disability;
- 6 (2) is capable of performing work with permanent limitations
- 7 or restrictions that prevent the employee from returning to
- 8 the position the employee held before the employee's
- 9 occupational disease; and
- 10 (3) is enrolled in a training program approved by:
 - 11 (A) the incumbent workers training board established by
 - 12 IC 22-4-18.3-2; or
 - 13 (B) the Indiana unemployment insurance board created by
 - 14 IC 22-4-18-2;

15 the employee may receive disabled from trade compensation.

16 (b) An employee may receive disabled from trade compensation
17 for a period not to exceed:

- 18 (1) fifty-two (52) consecutive weeks; or
- 19 (2) seventy-eight (78) total weeks.

20 (c) An employee is entitled to receive disabled from trade
21 compensation in a weekly amount equal to the difference between
22 the employee's average weekly wage from employment at the time
23 of the injury and the employee's average weekly wage from
24 employment after the injury with the permanent restrictions or
25 limitations resulting from the injury.

26 (d) The amount of disabled from trade compensation may not
27 exceed the maximum average weekly wage amounts set forth in
28 section 19 of this chapter.

29 (e) Not later than sixty (60) days after the employee's release to
30 return to work with restrictions or limitations, the employee must
31 receive notice from the employer on a form provided by the board
32 that informs the employee that the employee has been released to
33 work with limitations or restrictions. The notice must include:

- 34 (1) an explanation of the limitations or restrictions placed on
- 35 the employee;
- 36 (2) the amount of disabled from trade compensation the
- 37 employee has been awarded; and
- 38 (3) information for the employee regarding the terms of this
- 39 section.

40 (f) Disabled from trade compensation is in addition to any other
41 compensation awarded to an employee as a result of a temporary
42 total disability or a permanent partial impairment.

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1 **(g) An employer may unilaterally convert an award of**
 2 **compensation for a temporary total disability or a temporary**
 3 **partial disability into disabled from trade compensation by filing**
 4 **a copy of the notice required under subsection (e) with the board.**

5 SECTION 33. IC 22-3-7-17, AS AMENDED BY P.L.31-2000,
 6 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2003]: Sec. 17. (a) During the period of disablement, the
 8 employer shall furnish or cause to be furnished, free of charge to the
 9 employee, an attending physician for the treatment of ~~his~~ **the**
 10 **employee's** occupational disease, and in addition thereto such surgical,
 11 hospital, and nursing services and supplies as the attending physician
 12 or the worker's compensation board may deem necessary. If the
 13 employee is requested or required by the employer to submit to
 14 treatment outside the county of employment, the employer shall also
 15 pay the reasonable expense of travel, food, and lodging necessary
 16 during the travel, but not to exceed the amount paid at the time of the
 17 travel by the state of Indiana to its employees. If the treatment or travel
 18 to or from the place of treatment causes a loss of working time to the
 19 employee, the employer shall reimburse the employee for the loss of
 20 wages using the basis of the employee's average daily wage.

21 (b) During the period of disablement resulting from the occupational
 22 disease, the employer shall furnish such physician, services, and
 23 supplies, and the worker's compensation board may, on proper
 24 application of either party, require that treatment by such physician and
 25 such services and supplies be furnished by or on behalf of the employer
 26 as the board may deem reasonably necessary. After an employee's
 27 occupational disease has been adjudicated by agreement or award on
 28 the basis of permanent partial impairment and within the statutory
 29 period for review in such case as provided in section 27(i) of this
 30 chapter, the employer may continue to furnish a physician or a surgeon
 31 and other medical services and supplies, and the board may, within
 32 such statutory period for review as provided in section 27(i) of this
 33 chapter, on a proper application of either party, require that treatment
 34 by such physician or surgeon and such services and supplies be
 35 furnished by and on behalf of the employer as the board may deem
 36 necessary to limit or reduce the amount and extent of such impairment.
 37 The refusal of the employee to accept such services and supplies when
 38 so provided by or on behalf of the employer, shall bar the employee
 39 from all compensation otherwise payable during the period of such
 40 refusal and ~~his~~ **the employee's** right to prosecute any proceeding under
 41 this chapter shall be suspended and abated until such refusal ceases.
 42 The employee must be served with a notice setting forth the

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1 consequences of the refusal under this section. The notice must be in
 2 a form prescribed by the worker's compensation board. No
 3 compensation for permanent total impairment, permanent partial
 4 impairment, permanent disfigurement, or death shall be paid or payable
 5 for that part or portion of such impairment, disfigurement, or death
 6 which is the result of the failure of such employee to accept such
 7 treatment, services, and supplies, provided that an employer may at any
 8 time permit an employee to have treatment for ~~his~~ **the employee's**
 9 disease or injury by spiritual means or prayer in lieu of such physician,
 10 services, and supplies.

11 **(c) After the employee's medical treatment begins, neither the**
 12 **employer nor the employer's insurance carrier has the right to**
 13 **transfer or otherwise redirect an employee's medical treatment to**
 14 **another physician unless:**

- 15 **(1) the employee makes the transfer request;**
 16 **(2) the attending physician requests that the physician's**
 17 **treatment of the employee be discontinued; or**
 18 **(3) the worker's compensation board determines that there is**
 19 **good cause for the transfer.**

20 **(d) If the employer or the employer's insurance carrier desires**
 21 **to transfer or redirect the employee's medical treatment for good**
 22 **cause, the employer or the employer's insurance carrier shall file**
 23 **a transfer request with the worker's compensation board on forms**
 24 **prescribed by the board. A transfer may not occur until the**
 25 **worker's compensation board issues an order granting the transfer**
 26 **request.**

27 **(e) A representative of the employer or the employer's insurance**
 28 **carrier, including a case manager or a rehabilitation nurse, may**
 29 **not attend or be present during the employee's medical treatment**
 30 **unless the representative complies with all of the following**
 31 **provisions:**

- 32 **(1) Both the employee and the treating medical personnel**
 33 **provide express written consent.**
 34 **(2) The written consent described in subdivision (1) is**
 35 **required before the representative may attend or be present**
 36 **during the employee's medical treatment.**
 37 **(3) The representative may not jeopardize or threaten to**
 38 **jeopardize the payment of the employee's compensation under**
 39 **this article because the employee fails or refuses to complete**
 40 **the written consent described in subdivision (1).**
 41 **(4) The representative may not cause the employee to believe**
 42 **that the employee's compensation under this article may be**

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1 **terminated or reduced because the employee fails or refuses**
 2 **to complete the written consent described in subdivision (1).**

3 **(5) The representative shall obtain the written consents**
 4 **required by subdivision (1) on forms prescribed by the**
 5 **worker's compensation board.**

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

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

28 (h) This section may not be construed to prohibit an agreement
 29 between an employer and employees that has the approval of the board
 30 and that:

31 (1) binds the parties to medical care furnished by providers
 32 selected by agreement before or after disablement; or

33 (2) makes the findings of a provider chosen in this manner
 34 binding upon the parties.

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

42 SECTION 34. IC 22-3-7-19, AS AMENDED BY P.L.31-2000,

HB 1003—LS 7818/DI 51+



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1 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2003]: Sec. 19. (a) In computing compensation for temporary
3 total disability, temporary partial disability, and total permanent
4 disability under this law with respect to occupational diseases
5 occurring:

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

- 8 (A) not more than one hundred thirty-five dollars (\$135); and
9 (B) not less than seventy-five dollars (\$75);

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

- 12 (A) not more than one hundred fifty-six dollars (\$156); and
13 (B) not less than seventy-five dollars (\$75);

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

- 16 (A) not more than one hundred eighty dollars (\$180); and
17 (B) not less than seventy-five dollars (\$75);

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

- 20 (A) not more than one hundred ninety-five dollars (\$195); and
21 (B) not less than seventy-five dollars (\$75);

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

- 24 (A) not more than two hundred ten dollars (\$210); and
25 (B) not less than seventy-five dollars (\$75);

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

- 28 (A) not more than two hundred thirty-four dollars (\$234); and
29 (B) not less than seventy-five dollars (\$75); and

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

- 32 (A) not more than two hundred forty-nine dollars (\$249); and
33 (B) not less than seventy-five dollars (\$75).

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

- 38 (1) not more than two hundred sixty-seven dollars (\$267); and
39 (2) not less than seventy-five dollars (\$75).

40 (c) In computing compensation for temporary total disability,
41 temporary partial disability, and total permanent disability, with respect
42 to occupational diseases occurring on and after July 1, 1986, and before

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- 1 July 1, 1988, the average weekly wages are considered to be:
2 (1) not more than two hundred eighty-five dollars (\$285); and
3 (2) not less than seventy-five dollars (\$75).
- 4 (d) In computing compensation for temporary total disability,
5 temporary partial disability, and total permanent disability, with respect
6 to occupational diseases occurring on and after July 1, 1988, and before
7 July 1, 1989, the average weekly wages are considered to be:
8 (1) not more than three hundred eighty-four dollars (\$384); and
9 (2) not less than seventy-five dollars (\$75).
- 10 (e) In computing compensation for temporary total disability,
11 temporary partial disability, and total permanent disability, with respect
12 to occupational diseases occurring on and after July 1, 1989, and before
13 July 1, 1990, the average weekly wages are considered to be:
14 (1) not more than four hundred eleven dollars (\$411); and
15 (2) not less than seventy-five dollars (\$75).
- 16 (f) In computing compensation for temporary total disability,
17 temporary partial disability, and total permanent disability, with respect
18 to occupational diseases occurring on and after July 1, 1990, and before
19 July 1, 1991, the average weekly wages are considered to be:
20 (1) not more than four hundred forty-one dollars (\$441); and
21 (2) not less than seventy-five dollars (\$75).
- 22 (g) In computing compensation for temporary total disability,
23 temporary partial disability, and total permanent disability, with respect
24 to occupational diseases occurring on and after July 1, 1991, and before
25 July 1, 1992, the average weekly wages are considered to be:
26 (1) not more than four hundred ninety-two dollars (\$492); and
27 (2) not less than seventy-five dollars (\$75).
- 28 (h) In computing compensation for temporary total disability,
29 temporary partial disability, and total permanent disability, with respect
30 to occupational diseases occurring on and after July 1, 1992, and before
31 July 1, 1993, the average weekly wages are considered to be:
32 (1) not more than five hundred forty dollars (\$540); and
33 (2) not less than seventy-five dollars (\$75).
- 34 (i) In computing compensation for temporary total disability,
35 temporary partial disability, and total permanent disability, with respect
36 to occupational diseases occurring on and after July 1, 1993, and before
37 July 1, 1994, the average weekly wages are considered to be:
38 (1) not more than five hundred ninety-one dollars (\$591); and
39 (2) not less than seventy-five dollars (\$75).
- 40 (j) In computing compensation for temporary total disability,
41 temporary partial disability and total permanent disability, with respect
42 to occupational diseases occurring on and after July 1, 1994, and before

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- 1 July 1, 1997, the average weekly wages are considered to be:
 2 (1) not more than six hundred forty-two dollars (\$642); and
 3 (2) not less than seventy-five dollars (\$75).
 4 (k) 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 occupational diseases occurring on and after
 8 July 1, 1997, 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 occupational diseases occurring on and after
 12 July 1, 1998, 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 occupational diseases occurring on and after
 16 July 1, 1999, 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);
 20 (4) with respect to occupational diseases occurring on and after
 21 July 1, 2000, 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 ~~disablements~~ **occupational diseases** occurring
 25 on and after July 1, 2001, and before July 1, 2002:
 26 (A) not more than eight hundred twenty-two dollars (\$822);
 27 and
 28 (B) not less than seventy-five dollars (\$75); ~~and~~
 29 (6) with respect to ~~disablements~~ **occupational diseases** occurring
 30 on and after July 1, 2002, **and before July 1, 2003:**
 31 (A) not more than eight hundred eighty-two dollars (\$882);
 32 and
 33 (B) not less than seventy-five dollars (\$75);
 34 (7) **with respect to occupational diseases occurring on and**
 35 **after July 1, 2003, and before July 1, 2004:**
 36 (A) **not more than nine hundred forty-eight dollars (\$948);**
 37 **and**
 38 (B) **not less than two hundred six dollars (\$206); and**
 39 (8) **with respect to occupational diseases occurring on and**
 40 **after July 1, 2004:**
 41 (A) **not more than one thousand fourteen dollars (\$1,014);**
 42 **and**



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(B) not less than two hundred six dollars (\$206).

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

- (1) on and after July 1, 1974, and before July 1, 1976, shall not exceed forty-five thousand dollars (\$45,000) in any case;
- (2) on and after July 1, 1976, and before July 1, 1977, shall not exceed fifty-two thousand dollars (\$52,000) in any case;
- (3) on and after July 1, 1977, and before July 1, 1979, may not exceed sixty thousand dollars (\$60,000) in any case;
- (4) on and after July 1, 1979, and before July 1, 1980, may not exceed sixty-five thousand dollars (\$65,000) in any case;
- (5) on and after July 1, 1980, and before July 1, 1983, may not exceed seventy thousand dollars (\$70,000) in any case;
- (6) on and after July 1, 1983, and before July 1, 1984, may not exceed seventy-eight thousand dollars (\$78,000) in any case; and
- (7) on and after July 1, 1984, and before July 1, 1985, may not exceed eighty-three thousand dollars (\$83,000) in any case.

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

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

(o) The maximum compensation with respect to disability or death occurring on and after July 1, 1990, and before July 1, 1991, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one

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1 hundred forty-seven thousand dollars (\$147,000) in any case.

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

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

13 (r) The maximum compensation with respect to disability or death
14 occurring on and after July 1, 1993, and before July 1, 1994, that shall
15 be paid for occupational disease and the results thereof under this
16 chapter or under any combination of the provisions of this chapter may
17 not exceed one hundred ninety-seven thousand dollars (\$197,000) in
18 any case.

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

25 (t) The maximum compensation that shall be paid for occupational
26 disease and the results of an occupational disease under this chapter or
27 under any combination of the provisions of this chapter, **subject to**
28 **section 21 of this chapter**, may not exceed the following amounts in
29 any case:

30 (1) With respect to disability or death occurring on and after July
31 1, 1997, and before July 1, 1998, two hundred twenty-four
32 thousand dollars (\$224,000).

33 (2) With respect to disability or death occurring on and after July
34 1, 1998, and before July 1, 1999, two hundred thirty-four
35 thousand dollars (\$234,000).

36 (3) With respect to disability or death occurring on and after July
37 1, 1999, and before July 1, 2000, two hundred forty-four thousand
38 dollars (\$244,000).

39 (4) With respect to disability or death occurring on and after July
40 1, 2000, and before July 1, 2001, two hundred fifty-four thousand
41 dollars (\$254,000).

42 (5) With respect to disability or death occurring on and after July

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1 1, 2001, and before July 1, 2002, two hundred seventy-four
2 thousand dollars (\$274,000).

3 (6) With respect to disability or death occurring on and after July
4 1, 2002, **and before July 1, 2003**, two hundred ninety-four
5 thousand dollars (\$294,000).

6 **(7) With respect to a disability or death occurring on or after**
7 **July 1, 2003, the total of one hundred twenty-five (125) weeks**
8 **of temporary total disability compensation plus one hundred**
9 **(100) degrees of permanent partial impairment, both as set**
10 **forth in section 16 of this chapter.**

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

37 (v) For all disabilities occurring on and after July 1, 1985, "average
38 weekly wages" means the earnings of the injured employee during the
39 period of fifty-two (52) weeks immediately preceding the disability
40 divided by fifty-two (52). If the employee lost seven (7) or more
41 calendar days during the period, although not in the same week, then
42 the earnings for the remainder of the fifty-two (52) weeks shall be

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1 divided by the number of weeks and parts of weeks remaining after the
 2 time lost has been deducted. If employment before the date of disability
 3 extended over a period of less than fifty-two (52) weeks, the method of
 4 dividing the earnings during that period by the number of weeks and
 5 parts of weeks during which the employee earned wages shall be
 6 followed if results just and fair to both parties will be obtained. If by
 7 reason of the shortness of the time during which the employee has been
 8 in the employment of the employer or of the casual nature or terms of
 9 the employment it is impracticable to compute the average weekly
 10 wages for the employee, the employee's average weekly wages shall be
 11 considered to be the average weekly amount that, during the fifty-two
 12 (52) weeks before the date of disability, was being earned by a person
 13 in the same grade employed at the same work by the same employer or,
 14 if there is no person so employed, by a person in the same grade
 15 employed in that same class of employment in the same district.
 16 Whenever allowances of any character are made to an employee
 17 instead of wages or a specified part of the wage contract, they shall be
 18 considered a part of the employee's earnings.

19 (w) **In computing the average weekly wage for an employee**
 20 **who:**

- 21 (1) **has sustained a compensable occupational disease;**
- 22 (2) **has returned to work; and**
- 23 (3) **sustains a later period of disability due to that**
 24 **occupational disease after June 30, 2003;**

25 **the average weekly wage for the later period of disability shall be**
 26 **determined based on the average weekly wage at the time of that**
 27 **disability, subject to the maximum average weekly wage in effect**
 28 **as of the last day worked, computed as set forth in this section.**

29 (x) The provisions of this article may not be construed to result in
 30 an award of benefits in which the number of weeks paid or to be paid
 31 for temporary total disability, temporary partial disability, or permanent
 32 total disability benefits combined exceeds five hundred (500) weeks.
 33 This section shall not be construed to prevent a person from applying
 34 for an award under IC 22-3-3-13. However, in case of permanent total
 35 disability resulting from a disablement occurring on or after January 1,
 36 1998, the minimum total benefit shall not be less than seventy-five
 37 thousand dollars (\$75,000).

38 (y) **Each payment of compensation due under this section shall**
 39 **be reduced or increased as provided in section 21 of this chapter.**

40 SECTION 35. IC 22-3-7-20 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) After
 42 disablement and during the period of claimed resulting disability or

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1 impairment, the employee, if so requested by the employee's employer
 2 or ordered by the worker's compensation board, shall submit to an
 3 examination at reasonable times and places by a duly qualified
 4 physician or surgeon designated and paid by the employer or by order
 5 of the board. The employee shall have the right to have present at any
 6 such examination any duly qualified physician or surgeon provided and
 7 paid for by the employee. No fact communicated to or otherwise
 8 learned by any physician or surgeon who may have attended or
 9 examined the employee, or who may have been present at any
 10 examination, shall be privileged either in the hearings provided for in
 11 this chapter, or in any action at law brought to recover damages against
 12 any employer who is subject to the compensation provisions of this
 13 chapter. If the employee refuses to submit to, or in any way obstructs
 14 the examinations, the employee's right to compensation and right to
 15 take or prosecute any proceedings under this chapter shall be
 16 suspended until the refusal or obstruction ceases. No compensation
 17 shall at any time be payable for the period of suspension unless in the
 18 opinion of the board, the circumstances justified the refusal or
 19 obstruction. The employee must be served with a notice setting forth
 20 the consequences of the refusal under this subsection. The notice must
 21 be in a form prescribed by the worker's compensation board.

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

35 (c) When any employee injured in Indiana moves outside Indiana,
 36 the travel expense and the cost of meals and lodging necessary during
 37 the travel, payable under this section, shall be paid from the point in
 38 Indiana nearest to the employee's then residence to the place of
 39 examination. No travel and other expense shall be paid for any travel
 40 and other expense required outside Indiana.

41 (d) A duly qualified physician or surgeon provided and paid for by
 42 the employee may be present at an examination, if the employee so

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

21 (e) In all cases where an examination of an employee is made by a
22 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 the facts that are reported by such physician or surgeon to
28 the employee. The 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 (f). If the
34 physician or surgeon fails or refuses to furnish the employer or the
35 employer's representative with such statement thirty (30) days before
36 the hearing, then the statement may not be submitted as evidence, and
37 the physician or surgeon shall not be permitted to testify before the
38 worker's compensation 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 (f) **A representative of the employer or the employer's insurance**

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1 carrier, including a case manager or a rehabilitation nurse, may
2 not attend or be present during the employee's medical treatment
3 unless the representative complies with all of the following
4 provisions:

5 (1) Both the employee and the treating medical personnel
6 provide express written consent.

7 (2) The written consent described in subdivision (1) is
8 required before the representative may attend or be present
9 during the employee's medical treatment.

10 (3) The representative may not jeopardize or threaten to
11 jeopardize the payment of the employee's compensation under
12 this article because the employee fails or refuses to complete
13 the written consent described in subdivision (1).

14 (4) The representative may not cause the employee to believe
15 that the employee's compensation under this article may be
16 terminated or reduced because the employee fails or refuses
17 to complete the written consent described in subdivision (1).

18 (5) The representative shall obtain the written consents
19 required by subdivision (1) on forms prescribed by the
20 worker's compensation board.

21 (g) All statements of physicians or surgeons required by this section,
22 whether those engaged by employee or employer, shall contain the
23 following information:

24 (1) The history of the injury, or claimed injury, as given by the
25 patient.

26 (2) The diagnosis of the physician or surgeon concerning the
27 patient's physical or mental condition.

28 (3) The opinion of the physician or surgeon concerning the causal
29 relationship, if any, between the injury and the patient's physical
30 or mental condition, including the physician's or surgeon's reasons
31 for the opinion.

32 (4) The opinion of the physician or surgeon concerning whether
33 the injury or claimed injury resulted in a disability or impairment
34 and, if so, the opinion of the physician or surgeon concerning the
35 extent of the disability or impairment and the reasons for the
36 opinion.

37 (5) The original signature of the physician or surgeon.

38 Notwithstanding any hearsay objection, the worker's compensation
39 board shall admit into evidence a statement that meets the requirements
40 of this subsection unless the statement is ruled inadmissible on other
41 grounds.

42 (g) (h) Delivery of any statement required by this section may be

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1 made to the attorney or agent of the employer or employee and such an
2 action shall be construed as delivery to the employer or employee.

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

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

30 SECTION 36. IC 22-3-7-21 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) No
32 compensation is allowed for any condition of physical or mental
33 ill-being, disability, disablement, or death for which compensation is
34 recoverable on account of accidental injury under ~~chapters 2 through~~
35 ~~6 of this article. IC 22-3-2 through IC 22-3-6.~~

36 ~~No~~ **Each payment of compensation is allowed under sections**
37 **16 and 19 of this chapter shall be reduced by twenty percent (20%)**
38 **for any occupational disease or death knowingly self-inflicted by the**
39 **employee or due to:**

40 **his (1) intoxication;**

41 **his (2) commission of an offense;**

42 **his (3) knowing and willful failure to use a safety appliance;**



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1 ~~his~~ **(4) knowing and willful** failure to obey a reasonable written
 2 or printed rule of the employer which has been posted in a
 3 conspicuous position in the place of work; or
 4 ~~his~~ **(5) knowing and willful** failure to perform any statutory duty.
 5 ~~The burden of proof is on the defendant.~~

6 **(c) No compensation is allowed for an employee's knowing and**
 7 **willful self-inflicted occupational disease or death.**

8 **(d) Each payment of compensation allowed under sections 16**
 9 **and 19 of this chapter shall be increased by thirty percent (30%)**
 10 **for a disease or death due to the employer's intentional failure to**
 11 **comply with a statute or an administrative regulation regarding**
 12 **safety methods or installation or maintenance of safety appliances.**

13 **(e) The defendant has the burden of proof under subsections (b)**
 14 **and (c).**

15 SECTION 37. IC 22-3-7-24 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. (a) The worker's
 17 compensation board may make rules not inconsistent with this chapter
 18 for carrying out the provisions of this chapter. Processes and
 19 procedures under this chapter shall be as summary and simple as
 20 reasonably may be. The board, or any member thereof, shall have the
 21 power, for the purpose of this chapter, to subpoena witnesses,
 22 administer or cause to have administered oaths, and to examine or
 23 cause to have examined such parts of the books and records of the
 24 parties to a proceeding as relate to questions in dispute. The county
 25 sheriff shall serve all subpoenas of the board **and magistrates**
 26 **appointed under IC 22-3-1-1** and shall receive the same fees as
 27 provided by law for like service in civil actions. Each witness who
 28 appears in obedience to such subpoena of the board shall receive for
 29 attendance the fees and mileage for witnesses in civil cases in the
 30 courts. The circuit or superior court shall, on application of the board
 31 or any member thereof, enforce by proper proceedings the attendance
 32 and testimony of witnesses and the production and examination of
 33 books, papers, and records.

34 (b) The fees of attorneys and physicians and charges of nurses and
 35 hospitals for services under this chapter shall be subject to the approval
 36 of the worker's compensation board. When any claimant for
 37 compensation is represented by an attorney in the prosecution of ~~his~~
 38 **the claimant's** claim, the board shall fix and state in the award, if
 39 compensation be awarded, the amount of the claimant's attorney's fees.
 40 The fee so fixed shall be binding upon both the claimant and ~~his~~ **the**
 41 **claimant's** attorney, and the employer shall pay to the attorney, out of
 42 the award, the fee so fixed, and the receipt of the attorney therefor shall

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fully acquit the employer for an equal portion of the award.

(c) Whenever the worker's compensation board shall determine upon hearing of a claim that the employer has acted in bad faith in adjusting and settling said award, or whenever the board shall determine upon hearing of a claim that the employer has not pursued the settlement of said claim with diligence, then the board shall, if compensation be awarded, fix the amount of the claimant's attorney's fees and such attorney's fees shall be paid to the attorney and shall not be charged against the award to the claimant. Such fees as are fixed and awarded on account of a lack of diligence or because of bad faith on the part of the employer shall not be less than one hundred fifty dollars (\$150).

(d) The worker's compensation board may withhold the approval of the fees of the attending physician in any case until ~~he shall file the~~ **attending physician files** a report with the board on the form prescribed by such board.

SECTION 38. IC 22-3-7-27, AS AMENDED BY P.L.235-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) If the employer and the employee or the employee's dependents disagree in regard to the compensation payable under this chapter, or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or as to the amount to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute. When compensation which is payable in accordance with an award or by agreement approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned.

(b) The application making claim for compensation filed with the worker's compensation board shall state the following:

- (1) The approximate date of the last day of the last exposure and the approximate date of the disablement.
- (2) The general nature and character of the illness or disease claimed.
- (3) The name and address of the employer by whom employed on the last day of the last exposure, and if employed by any other employer after such last exposure and before disablement, the name and address of such other employer or employers.
- (4) In case of death, the date and place of death.

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1 (5) Amendments to applications making claim for compensation
2 which relate to the same disablement or disablement resulting in
3 death originally claimed upon may be allowed by the board in its
4 discretion, and, in the exercise of such discretion, it may, in
5 proper cases, order a trial de novo. Such amendment shall relate
6 back to the date of the filing of the original application so
7 amended.

8 (c) Upon the filing of such application, the board shall set the date
9 of hearing, which shall be as early as practicable, and shall notify the
10 parties, in the manner prescribed by the board, of the time and place of
11 hearing. The hearing of all claims for compensation on account of
12 occupational disease shall be held in the county in which the last
13 exposure occurred or in any adjoining county, except when the parties
14 consent to a hearing elsewhere. Claims assigned to an individual board
15 member that are considered to be of an emergency nature by that board
16 member, may be heard in any county within the board member's
17 jurisdiction.

18 (d) The board by any or all of its members **or by magistrates**
19 **appointed under IC 22-3-1-1** shall hear the parties at issue, their
20 representatives, and witnesses, and shall determine the dispute in a
21 summary manner. The award shall be filed with the record of
22 proceedings, and a copy thereof shall immediately be sent by registered
23 mail to each of the parties in dispute.

24 (e) If an application for review is made to the board within thirty
25 (30) days from the date of the award made by less than all the
26 members, the full board, if the first hearing was not held before the full
27 board, shall review the evidence, or, if deemed advisable, hear the
28 parties at issue, their representatives, and witnesses as soon as
29 practicable, and shall make an award and file the same with the finding
30 of the facts on which it is based and send a copy thereof to each of the
31 parties in dispute, in like manner as specified in subsection (d).

32 (f) An award of the board by less than all of the members as
33 provided in this section, if not reviewed as provided in this section,
34 shall be final and conclusive. An award by the full board shall be
35 conclusive and binding unless either party to the dispute, within thirty
36 (30) days after receiving a copy of such award, appeals to the court of
37 appeals under the same terms and conditions as govern appeals in
38 ordinary civil actions. The court of appeals shall have jurisdiction to
39 review all questions of law and of fact. The board, of its own motion,
40 may certify questions of law to the court of appeals for its decision and
41 determination. An assignment of errors that the award of the full board
42 is contrary to law shall be sufficient to present both the sufficiency of

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1 the facts found to sustain the award and the sufficiency of the evidence
 2 to sustain the finding of facts. All such appeals and certified questions
 3 of law shall be submitted upon the date filed in the court of appeals,
 4 shall be advanced upon the docket of the court, and shall be determined
 5 at the earliest practicable date, without any extensions of time for filing
 6 briefs. An award of the full board affirmed on appeal, by the employer,
 7 shall be increased thereby five percent (5%), and by order of the court
 8 may be increased ten percent (10%).

9 (g) Upon order of the worker's compensation board made after five
 10 (5) days notice is given to the opposite party, any party in interest may
 11 file in the circuit or superior court of the county in which the
 12 disablement occurred a certified copy of the memorandum of
 13 agreement, approved by the board, or of an order or decision of the
 14 board, or of an award of the full board unappealed from, or of an award
 15 of the full board affirmed upon an appeal, whereupon the court shall
 16 render judgment in accordance therewith and notify the parties. Such
 17 judgment shall have the same effect and all proceedings in relation
 18 thereto shall thereafter be the same as though such judgment has been
 19 rendered in a suit duly heard and determined by the court. Any such
 20 judgment of such circuit or superior court, unappealed from or affirmed
 21 on appeal or modified in obedience to the mandate of the court of
 22 appeals, shall be modified to conform to any decision of the industrial
 23 board ending, diminishing, or increasing any weekly payment under the
 24 provisions of subsection (i) upon the presentation to it of a certified
 25 copy of such decision.

26 (h) In all proceedings before the worker's compensation board or in
 27 a court under the compensation provisions of this chapter, the costs
 28 shall be awarded and taxed as provided by law in ordinary civil actions
 29 in the circuit court. **Prejudgment interest shall be awarded at a rate**
 30 **of ten percent (10%) per year, accruing from the date of filing of**
 31 **the application for adjustment of claim as determined under**
 32 **subsection (a).**

33 (i) The power and jurisdiction of the worker's compensation board
 34 over each case shall be continuing, and, from time to time, it may, upon
 35 its own motion or upon the application of either party on account of a
 36 change in conditions, make such modification or change in the award
 37 ending, lessening, continuing, or extending the payments previously
 38 awarded, either by agreement or upon hearing, as it may deem just,
 39 subject to the maximum and minimum provided for in this chapter.
 40 When compensation which is payable in accordance with an award or
 41 settlement contract approved by the board is ordered paid in a lump
 42 sum by the board, no review shall be had as in this subsection



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1 mentioned. Upon making any such change, the board shall immediately
 2 send to each of the parties a copy of the modified award. No such
 3 modification shall affect the previous award as to any money paid
 4 thereunder. The board shall not **have jurisdiction to** make any ~~such~~
 5 modification upon its own motion ~~nor shall or upon~~ any application
 6 ~~therefor be~~ filed by either party after the expiration of two (2) years
 7 from the ~~last day for which compensation was paid under the original~~
 8 **date of the most recent** award made either by agreement or upon
 9 hearing, ~~except that applications for increased permanent partial~~
 10 ~~impairment are barred unless filed within one (1) year from the last day~~
 11 ~~for which compensation was paid.~~ The board may at any time correct
 12 any clerical error in any finding or award.

13 (j) The board or any member thereof may, upon the application of
 14 either party or upon its own motion, appoint a disinterested and duly
 15 qualified physician or surgeon to make any necessary medical
 16 examination of the employee and to testify in respect thereto. Such
 17 physician or surgeon shall be allowed traveling expenses and a
 18 reasonable fee, to be fixed by the board. The fees and expenses of such
 19 physician or surgeon shall be paid by the state only on special order of
 20 the board or a member thereof.

21 (k) The board or any member thereof may, upon the application of
 22 either party or upon its own motion, appoint a disinterested and duly
 23 qualified industrial hygienist, industrial engineer, industrial physician,
 24 or chemist to make any necessary investigation of the occupation in
 25 which the employee alleges that ~~he~~ **the employee** was last exposed to
 26 the hazards of the occupational disease claimed upon, and testify with
 27 respect to the occupational disease health hazards found by such person
 28 or persons to exist in such occupation. Such person or persons shall be
 29 allowed traveling expenses and a reasonable fee, to be fixed by the
 30 board. The fees and expenses of such persons shall be paid by the state,
 31 only on special order of the board or a member thereof.

32 (l) Whenever any claimant misconceives the claimant's remedy and
 33 files an application for adjustment of a claim under IC 22-3-2 through
 34 IC 22-3-6 and it is subsequently discovered, at any time before the final
 35 disposition of such cause, that the claim for injury or death which was
 36 the basis for such application should properly have been made under
 37 the provisions of this chapter, then the application so filed under
 38 IC 22-3-2 through IC 22-3-6 may be amended in form or substance or
 39 both to assert a claim for such disability or death under the provisions
 40 of this chapter, and it shall be deemed to have been so filed as amended
 41 on the date of the original filing thereof, and such compensation may
 42 be awarded as is warranted by the whole evidence pursuant to the



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provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the worker's compensation board when deemed necessary. Nothing in this section contained shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice or time for filing a claim, but notice of filing of a claim, if given or done, shall be deemed to be a notice or filing of a claim under the provisions of this chapter if given or done within the time required in this chapter.

SECTION 39. IC 22-3-7-34.5, AS AMENDED BY P.L.202-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 34.5. (a) As used in this section, "independent contractor" refers to a person described in section 9(b)(5) of this chapter.

(b) As used in this section, "person" means an individual, a proprietorship, a partnership, a joint venture, a firm, an association, a corporation, or other legal entity.

(c) An independent contractor who does not make an election under section 9(b)(2) of this chapter or section 9(b)(3) of this chapter is not subject to the compensation provisions of this chapter and must file a statement with the department of state revenue and obtain a certificate of exemption.

(d) An independent contractor shall file with the department of state revenue, in the form prescribed by the department of state revenue, a statement containing the information required by IC 6-3-7-5.

(e) Together with the statement required in subsection (d), an independent contractor shall file annually with the department documentation in support of independent contractor status before being granted a certificate of exemption. The independent contractor must obtain clearance from the department of state revenue before issuance of the certificate.

(f) An independent contractor shall pay a filing fee in the amount of fifteen dollars (\$15) with the certificate filed under subsection (h). The fees collected under this subsection shall be deposited in the worker's compensation supplemental administrative fund. **and Thirty-four percent (34%) of the money in the fund shall be used allocated for all expenses the board incurs in administering this section. Sixty-six percent (66%) of the money in the fund shall be allocated for the enforcement of section 34.6 of this chapter, including the costs of hiring additional staff required by the department of labor.**

(g) The worker's compensation board shall maintain a data base consisting of certificates received under this section and on request may verify that a certificate was filed.

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1 (h) A certificate of exemption must be filed with the worker's
 2 compensation board. The board shall indicate that the certificate has
 3 been filed by stamping the certificate with the date of receipt and
 4 returning a stamped copy to the person filing the certificate. A
 5 certificate becomes effective as of midnight seven (7) business days
 6 after the date file stamped by the worker's compensation board. The
 7 board shall maintain a data base containing information required in
 8 subsections (e) and (g).

9 (i) A person who contracts for services of another person not
 10 covered by this chapter to perform work must secure a copy of a
 11 stamped certificate of exemption filed under this section from the
 12 person hired. A person may not require a person who has provided a
 13 stamped certificate to have worker's compensation coverage. The
 14 worker's compensation insurance carrier of a person who contracts with
 15 an independent contractor shall accept a stamped certificate in the
 16 same manner as a certificate of insurance.

17 (j) A stamped certificate filed under this section is binding on and
 18 holds harmless for all claims:

19 (1) a person who contracts with an independent contractor after
 20 receiving a copy of the stamped certificate; and

21 (2) the worker's compensation insurance carrier of the person who
 22 contracts with the independent contractor.

23 The independent contractor may not collect compensation under this
 24 chapter for an injury from a person or the person's worker's
 25 compensation carrier to whom the independent contractor has
 26 furnished a stamped certificate.

27 SECTION 40. IC 22-3-7-34.6 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2003]: **Sec. 34.6. (a) As used in this section,**
 30 **"person" has the meaning set forth in section 34.5 of this chapter.**

31 **(b) A person who does any of the following is subject to a civil**
 32 **penalty under this section:**

33 **(1) Fails to obtain a copy of another person's stamped**
 34 **certificate of exemption as required under section 34.5(i) of**
 35 **this chapter before that person performs work on the person's**
 36 **behalf as an independent contractor.**

37 **(2) Fails to keep a copy of another person's stamped**
 38 **certificate of exemption on file as long as that person is**
 39 **performing work on the person's behalf as an independent**
 40 **contractor.**

41 **(c) If the department of labor determines that a person has**
 42 **violated subsection (b)(1) or (b)(2), the department of labor may**

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1 assess a civil penalty of not more than one thousand dollars
2 (\$1,000) for each violation, plus any investigative costs incurred
3 and documented by the department of labor. If the department of
4 labor determines that a civil penalty is warranted, the department
5 of labor shall consider the following factors in determining the
6 amount of the penalty:

7 (1) Whether the person performing work as an independent
8 contractor meets the definition of an independent contractor
9 under section 9(b)(5) of this chapter.

10 (2) Whether the violation was an isolated event or part of a
11 pattern of violations.

12 (d) All civil penalties collected under this section shall be
13 deposited in the occupational disease second injury fund created
14 under section 16.1 of this chapter.

15 (e) A civil penalty assessed under subsection (c):

16 (1) is subject to IC 4-21.5-2-6; and

17 (2) becomes effective without a proceeding under IC 4-21.5-3,
18 unless a person requests an administrative review not later
19 than thirty (30) days after the notice of assessment is given.

20 (f) The department of labor shall provide copies of its
21 determinations under this section to the worker's compensation
22 board and the department of state revenue.

23 SECTION 41. IC 22-4-2-12 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) **Except as**
25 **provided in subsections (b) and (c),** "base period" means the first four
26 (4) of the last five (5) completed calendar quarters immediately
27 preceding the first day of an individual's benefit period. ~~Provided,~~
28 ~~That~~ However, ~~that~~ for a claim computed in accordance with
29 IC ~~1971~~, 22-4-22, the base period shall be the base period as outlined
30 in the paying state's law.

31 (b) Effective January 1, 2005, "base period" also includes, in the
32 case of an individual who does not have sufficient wages in the base
33 period as set forth in subsection (a), the last four (4) completed
34 calendar quarters immediately preceding the first day of the
35 benefit year of the individual if the period qualifies the individual
36 for benefits under this chapter. Wages that fall within the base
37 period of claims established under this subsection are not available
38 for reuse in qualifying for a subsequent benefit year.

39 (c) In the case of a combined wage claim under an arrangement
40 approved by the United States Secretary of Labor, the base period
41 is the period applicable under the unemployment compensation
42 law of the paying state.

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1 **(d) The department shall adopt rules under IC 4-22-2 to obtain**
 2 **wage information if wage information for the most recent quarter**
 3 **of the base period as set forth under subsection (b) is not available**
 4 **to the department from regular quarterly reports of wage**
 5 **information that is systemically accessible.**

6 SECTION 42. IC 22-4-2-12.5 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.5. **(a)**
 8 Notwithstanding section 12 of this chapter, for an individual who
 9 during the "base period" as defined in that section has received
 10 worker's compensation benefits under IC 22-3-3 for a period of
 11 fifty-two (52) weeks or less, and as a result has not earned sufficient
 12 wage credits to meet the requirements of IC 22-4-14-5, "base period"
 13 means the first four (4) of the last five (5) completed calendar quarters
 14 immediately preceding the last day that the individual was able to
 15 work, as a result of the individual's injury.

16 **(b) The provisions of section 12(b), 12(c), and 12(d) of this**
 17 **chapter apply beginning January 1, 2005.**

18 SECTION 43. IC 22-4-2-22 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. "Valid claim"
 20 means a claim filed by an individual who has established qualifying
 21 wage credits and who is totally, partially, or part-totally unemployed.
 22 ~~Provided,~~ No individual in a benefit period may file a valid claim for
 23 a waiting period, **if applicable**, or benefit period rights with respect to
 24 any period subsequent to the expiration of such benefit period.

25 SECTION 44. IC 22-4-2-29 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. "Insured
 27 unemployment" means unemployment during a given week for which
 28 waiting period credit, **if applicable**, or benefits are claimed under the
 29 state employment security program, the unemployment compensation
 30 for federal employees program, the unemployment compensation for
 31 veterans program, or the railroad unemployment insurance program.

32 SECTION 45. IC 22-4-4-2 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Except as
 34 otherwise provided in this section, "wages" means all remuneration as
 35 defined in section 1 of this chapter paid to an individual by an
 36 employer, remuneration received as tips or gratuities in accordance
 37 with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and
 38 includes all remuneration considered as wages under Sections 3301
 39 and 3102 et seq. of the Internal Revenue Code. However, the term shall
 40 not include any amounts paid as compensation for services specifically
 41 excluded by IC 22-4-8-3 from the definition of employment as defined
 42 in IC 22-4-8-1 and IC 22-4-8-2. The term shall include, but not be

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1 limited to, any payments made by an employer to an employee or
 2 former employee, under order of the National Labor Relations Board,
 3 or a successor thereto, or agency named to perform the duties thereof,
 4 as additional pay, back pay, or for loss of employment, or any such
 5 payments made in accordance with an agreement made and entered
 6 into by an employer, a union, and the National Labor Relations Board.

7 (b) The term "wages" shall not include the following:

8 (1) That part of remuneration which, after remuneration equal to:

9 (A) seven thousand dollars (\$7,000), has been paid in a
 10 calendar year to an individual by an employer or ~~his the~~
 11 **employer's** predecessor with respect to employment during
 12 any calendar year ~~subsequent to~~ **beginning after** December
 13 31, 1982, **and before January 1, 2004; and**

14 (B) **nine thousand dollars (\$9,000), has been paid in a**
 15 **calendar year to an individual by an employer or the**
 16 **employer's predecessor for employment during a calendar**
 17 **year beginning after December 31, 2003;**

18 unless that part of the remuneration is subject to a tax under a
 19 federal law imposing a tax against which credit may be taken for
 20 contributions required to be paid into a state unemployment fund.
 21 For the purposes of this subdivision, the term "employment" shall
 22 include service constituting employment under any employment
 23 security law of any state or of the federal government. However,
 24 nothing in this subdivision shall be taken as an approval or
 25 disapproval of any related federal legislation.

26 (2) The amount of any payment (including any amount paid by an
 27 employer for insurance or annuities or into a fund to provide for
 28 any such payment) made to, or on behalf of, an individual or any
 29 of his dependents under a plan or system established by an
 30 employer which makes provision generally for individuals
 31 performing service for it (or for such individuals generally and
 32 their dependents) or for a class or classes of such individuals (or
 33 for a class or classes of such individuals and their dependents) on
 34 account of:

35 (A) retirement;

36 (B) sickness or accident disability;

37 (C) medical or hospitalization expenses in connection with
 38 sickness or accident disability; or

39 (D) death.

40 (3) The amount of any payment made by an employer to an
 41 individual performing service for it (including any amount paid
 42 by an employer for insurance or annuities or into a fund to

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1 provide for any such payment) on account of retirement.

2 (4) The amount of any payment on account of sickness or accident
3 disability, or medical or hospitalization expenses in connection
4 with sickness or accident disability made by an employer to, or on
5 behalf of, an individual performing services for it and after the
6 expiration of six (6) calendar months following the last calendar
7 month in which the individual performed services for such
8 employer.

9 (5) The amount of any payment made by an employer to, or on
10 behalf of, an individual performing services for it or to his
11 beneficiary:

12 (A) from or to a trust exempt from tax under Section 401(a) of
13 the Internal Revenue Code at the time of such payment unless
14 such payment is made to an individual performing services for
15 the trust as remuneration for such services and not as a
16 beneficiary of the trust; or

17 (B) under or to an annuity plan which, at the time of such
18 payments, meets the requirements of Section 401(a)(3),
19 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue
20 Code.

21 (6) Remuneration paid in any medium other than cash to an
22 individual for service not in the course of the employer's trade or
23 business.

24 (7) The amount of any payment (other than vacation or sick pay)
25 made to an individual after the month in which he attains the age
26 of sixty-five (65) if he did not perform services for the employer
27 in the period for which such payment is made.

28 (8) The payment by an employer (without deduction from the
29 remuneration of the employee) of the tax imposed upon an
30 employee under Sections 3101 et seq. of the Internal Revenue
31 Code (Federal Insurance Contributions Act).

32 SECTION 46. IC 22-4-4-3, AS AMENDED BY P.L.30-2000,
33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2003]: Sec. 3. (a) For calendar quarters beginning on and after
35 April 1, 1979, and before April 1, 1984, "wage credits" means
36 remuneration paid for employment by an employer to an individual.
37 Wage credits may not exceed three thousand six hundred sixty-six
38 dollars (\$3,666) and may not include payments specified in section
39 2(b) of this chapter.

40 (b) For calendar quarters beginning on and after April 1, 1984, and
41 before April 1, 1985, "wage credits" means remuneration paid for
42 employment by an employer to an individual. Wage credits may not

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1 exceed three thousand nine hundred twenty-six dollars (\$3,926) and
2 may not include payments specified in section 2(b) of this chapter.

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

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

13 (e) For calendar quarters beginning on and after July 1, 1995, and
14 before July 1, 1997, "wage credits" means remuneration paid for
15 employment by an employer to an individual and remuneration
16 received as tips or gratuities in accordance with Sections 3102 and
17 3301 et seq. of the Internal Revenue Code. Wage credits may not
18 exceed five thousand dollars (\$5,000) and may not include payments
19 specified in section 2(b) of this chapter.

20 (f) For calendar quarters beginning on and after July 1, 1997, and
21 before July 1, 1998, "wage credits" means remuneration paid for
22 employment by an employer to an individual and remuneration
23 received as tips or gratuities in accordance with Sections 3102 and
24 3301 et seq. of the Internal Revenue Code. Wage credits may not
25 exceed five thousand four hundred dollars (\$5,400) and may not
26 include payments specified in section 2(b) of this chapter.

27 (g) For calendar quarters beginning on and after July 1, 1998, and
28 before July 1, 1999, "wage credits" means remuneration paid for
29 employment by an employer to an individual and remuneration
30 received as tips or gratuities in accordance with Sections 3102 and
31 3301 et seq. of the Internal Revenue Code. Wage credits may not
32 exceed five thousand six hundred dollars (\$5,600) and may not include
33 payments that are excluded from the definition of wages under section
34 2(b) of this chapter.

35 (h) For calendar quarters beginning on and after July 1, 1999, and
36 before July 1, 2000, "wage credits" means remuneration paid for
37 employment by an employer to an individual and remuneration
38 received as tips or gratuities in accordance with Sections 3102 and
39 3301 et seq. of the Internal Revenue Code. Wage credits may not
40 exceed five thousand eight hundred dollars (\$5,800) and may not
41 include payments that are excluded from the definition of wages under
42 section 2(b) of this chapter.



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1 (i) For calendar quarters beginning on and after July 1, 2000, and
2 before July 1, 2001, "wage credits" means remuneration paid for
3 employment by an employer to an individual and remuneration
4 received as tips or gratuities in accordance with Sections 3102 and
5 3301 et seq. of the Internal Revenue Code. Wage credits may not
6 exceed six thousand seven hundred dollars (\$6,700) and may not
7 include payments that are excluded from the definition of wages under
8 section 2(b) of this chapter.

9 (j) For calendar quarters beginning on and after July 1, 2001, and
10 before July 1, 2002, "wage credits" means remuneration paid for
11 employment by an employer to an individual and remuneration
12 received as tips or gratuities in accordance with Sections 3102 and
13 3301 et seq. of the Internal Revenue Code. Wage credits may not
14 exceed seven thousand three hundred dollars (\$7,300) and may not
15 include payments that are excluded from the definition of wages under
16 section 2(b) of this chapter.

17 (k) For calendar quarters beginning on and after July 1, 2002, **and**
18 **before July 1, 2003**, "wage credits" means remuneration paid for
19 employment by an employer to an individual and remuneration
20 received as tips or gratuities in accordance with Sections 3102 and
21 3301 et seq. of the Internal Revenue Code. Wage credits may not
22 exceed seven thousand nine hundred dollars (\$7,900) and may not
23 include payments that are excluded from the definition of wages under
24 section 2(b) of this chapter.

25 (l) **For calendar quarters beginning on and after July 1, 2003,**
26 **and before July 1, 2004, "wage credits" means remuneration paid**
27 **for employment by an employer to an individual and remuneration**
28 **received as tips or gratuities in accordance with Sections 3102 and**
29 **3301 et seq. of the Internal Revenue Code. Wage credits may not**
30 **exceed eight thousand four hundred thirty-three dollars (\$8,433)**
31 **and may not include payments that are excluded from the**
32 **definition of wages under section 2(b) of this chapter.**

33 (m) For calendar quarters beginning on and after July 1, 2004,
34 and before July 1, 2005, "wage credits" means remuneration paid
35 for employment by an employer to an individual and remuneration
36 received as tips or gratuities in accordance with Sections 3102 and
37 3301 et seq. of the Internal Revenue Code. Wage credits may not
38 exceed eight thousand nine hundred sixty-six dollars (\$8,966) and
39 may not include payments that are excluded from the definition of
40 wages under section 2(b) of this chapter.

41 (n) For calendar quarters beginning on and after July 1, 2005,
42 "wage credits" means remuneration paid for employment by an

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1 employer to an individual and remuneration received as tips or
 2 gratuities in accordance with Sections 3102 and 3301 et seq. of the
 3 Internal Revenue Code. Wage credits may not exceed nine
 4 thousand five hundred dollars (\$9,500) and may not include
 5 payments that are excluded from the definition of wages under
 6 section 2(b) of this chapter.

7 SECTION 47. IC 22-4-10.5-7, AS ADDED BY P.L.290-2001,
 8 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2003]: Sec. 7. (a) After making the deposit required by
 10 subsection (b), the department shall deposit skills 2016 training
 11 assessments paid to the department under this chapter in the skills 2016
 12 training fund established by IC 22-4-24.5-1.

13 (b) After June 30, 2003, unless the board approves a lesser
 14 amount, the department annually shall deposit the first four
 15 hundred fifty thousand dollars (\$450,000) in skills 2016 training
 16 assessments paid to the department under this chapter in the
 17 special employment and training services fund established by
 18 IC 22-4-25-1 for the training and counseling assistance described
 19 in IC 22-4-25-1(f).

20 SECTION 48. IC 22-4-14-4 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This subsection
 22 applies before January 1, 2005. As a condition precedent to the
 23 payment of benefits to an individual with respect to any week such
 24 individual shall be required to serve a waiting period of one (1) week
 25 in which he has been totally, partially or part-totally unemployed and
 26 with respect to which he the individual has received no benefits, but
 27 during which he the individual was eligible for benefits in all other
 28 respects and was not otherwise ineligible for benefits under any
 29 provisions of this article. Such waiting period shall be a week in the
 30 individual's benefit period and during such week such individual shall
 31 be physically and mentally able to work and available for work. ~~No~~ An
 32 individual in a benefit period may not file for waiting period or benefit
 33 period rights with respect to any subsequent period. ~~Provided;~~
 34 However, ~~That~~ no waiting period shall be required as a prerequisite for
 35 drawing extended benefits.

36 (b) This subsection applies after December 31, 2004. An
 37 individual in a benefit period may not file for benefit period rights
 38 for any subsequent period.

39 SECTION 49. IC 22-4-14-11 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Except for
 41 benefits due under IC 22-4-15-3.5, for weeks of unemployment
 42 occurring after October 1, 1983, benefits may be paid to an individual

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1 on the basis of service performed in seasonal employment (as defined
2 in IC 22-4-8-4) only if the claim is filed within the operating period of
3 the seasonal employment. If the claim is filed outside the operating
4 period of the seasonal employment, benefits may be paid on the basis
5 of nonseasonal wages only.

6 (b) An employer shall file an application for a seasonal
7 determination (as defined by IC 22-4-7-3) with the department of
8 workforce development. A seasonal determination shall be made by the
9 department within ninety (90) days after the filing of such an
10 application. Until a seasonal determination by the department has been
11 made in accordance with this section, no employer or worker may be
12 considered seasonal.

13 (c) Any interested party may file an appeal regarding a seasonal
14 determination within fifteen (15) calendar days after the determination
15 by the department and obtain review of the determination in
16 accordance with IC 22-4-32.

17 (d) Whenever an employer is determined to be a seasonal employer,
18 the following provisions apply:

19 (1) The seasonal determination becomes effective the first day of
20 the calendar quarter commencing after the date of the seasonal
21 determination.

22 (2) The seasonal determination does not affect any benefit rights
23 of seasonal workers with respect to employment before the
24 effective date of the seasonal determination.

25 (e) If a seasonal employer, after the date of its seasonal
26 determination, operates its business or its seasonal operation during a
27 period or periods of twenty-six (26) weeks or more in a calendar year,
28 the employer shall be determined by the department to have lost its
29 seasonal status with respect to that business or operation effective at
30 the end of the then current calendar quarter. The redetermination shall
31 be reported in writing to the employer. Any interested party may file an
32 appeal within fifteen (15) calendar days after the redetermination by
33 the department and obtain review of the redetermination in accordance
34 with IC 22-4-32.

35 (f) Seasonal employers shall keep account of wages paid to seasonal
36 workers within the seasonal period as determined by the department
37 and shall report these wages on a special seasonal quarterly report form
38 provided by the department.

39 (g) The board shall adopt rules applicable to seasonal employers for
40 determining their normal seasonal period or periods.

41 SECTION 50. IC 22-4-15-1, AS AMENDED BY P.L.290-2001,
42 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2003]: Sec. 1. (a) With respect to benefit periods established
 2 on and after July 6, 1980, an individual who has voluntarily left the
 3 individual's most recent employment without good cause in connection
 4 with the work or who was discharged from the individual's most recent
 5 employment for just cause is ineligible for waiting period, **if**
 6 **applicable**, or benefit rights for the week in which the disqualifying
 7 separation occurred and until the individual has earned remuneration
 8 in employment equal to or exceeding the weekly benefit amount of the
 9 individual's claim in each of eight (8) weeks. If the qualification
 10 amount has not been earned at the expiration of an individual's benefit
 11 period, the unearned amount shall be carried forward to an extended
 12 benefit period or to the benefit period of a subsequent claim.

13 (b) When it has been determined that an individual has been
 14 separated from employment under disqualifying conditions as outlined
 15 in this section, the maximum benefit amount of ~~his~~ **the individual's**
 16 current claim, as initially determined, shall be reduced by twenty-five
 17 percent (25%). If twenty-five percent (25%) of the maximum benefit
 18 amount is not an even dollar amount, the amount of such reduction will
 19 be raised to the next higher even dollar amount. The maximum benefit
 20 amount may not be reduced by more than twenty-five percent (25%)
 21 during any benefit period or extended benefit period.

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

24 (1) An individual shall not be subject to disqualification because
 25 of separation from the individual's employment if:

26 (A) the individual left to accept with another employer
 27 previously secured permanent full-time work which offered
 28 reasonable expectation of continued covered employment and
 29 betterment of wages or working conditions; and thereafter was
 30 employed on said job;

31 (B) having been simultaneously employed by two (2)
 32 employers, the individual leaves one (1) such employer
 33 voluntarily without good cause in connection with the work
 34 but remains in employment with the second employer with a
 35 reasonable expectation of continued employment; or

36 (C) the individual left to accept recall made by a base period
 37 employer.

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



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- 1 (3) An individual who left work to enter the armed forces of the
2 United States shall not be subject to disqualification under this
3 section for such leaving of work.
- 4 (4) An individual whose employment is terminated under the
5 compulsory retirement provision of a collective bargaining
6 agreement to which the employer is a party, or under any other
7 plan, system, or program, public or private, providing for
8 compulsory retirement and who is otherwise eligible shall not be
9 deemed to have left the individual's work voluntarily without
10 good cause in connection with the work. However, if such
11 individual subsequently becomes reemployed and thereafter
12 voluntarily leaves work without good cause in connection with the
13 work, the individual shall be deemed ineligible as outlined in this
14 section.
- 15 (5) An otherwise eligible individual shall not be denied benefits
16 for any week because the individual is in training approved under
17 Section 236(a)(1) of the Trade Act of 1974, nor shall the
18 individual be denied benefits by reason of leaving work to enter
19 such training, provided the work left is not suitable employment,
20 or because of the application to any week in training of provisions
21 in this law (or any applicable federal unemployment
22 compensation law), relating to availability for work, active search
23 for work, or refusal to accept work. For purposes of this
24 subdivision, the term "suitable employment" means with respect
25 to an individual, work of a substantially equal or higher skill level
26 than the individual's past adversely affected employment (as
27 defined for purposes of the Trade Act of 1974), and wages for
28 such work at not less than eighty percent (80%) of the individual's
29 average weekly wage as determined for the purposes of the Trade
30 Act of 1974.
- 31 (6) An individual is not subject to disqualification because of
32 separation from the individual's employment if:
- 33 (A) the employment was outside the individual's labor market;
34 (B) the individual left to accept previously secured full-time
35 work with an employer in the individual's labor market; and
36 (C) the individual actually became employed with the
37 employer in the individual's labor market.
- 38 (7) An individual who, but for the voluntary separation to move
39 to another labor market to join a spouse who had moved to that
40 labor market, shall not be disqualified for that voluntary
41 separation, if the individual is otherwise eligible for benefits.
42 Benefits paid to the spouse whose eligibility is established under

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1 this subdivision shall not be charged against the employer from
2 whom the spouse voluntarily separated.

3 **(8) An individual who is an affected employee (as defined in**
4 **IC 22-4-43-1(1)) and is subject to the work sharing**
5 **unemployment insurance program under IC 22-4-43 is not**
6 **disqualified from participating in the work sharing**
7 **unemployment insurance program.**

8 **(9) The following provisions apply to an individual employed**
9 **by a temporary employment agency (as defined in**
10 **IC 22-5-6-7):**

11 **(A) An individual who last was employed by a temporary**
12 **employment agency is not considered to have quit**
13 **employment voluntarily without good cause if the**
14 **individual did not contact the temporary employment**
15 **agency for reassignment upon completion of the**
16 **assignment.**

17 **(B) When an individual who last was employed by a**
18 **temporary employment agency:**

19 **(i) completes an assignment with a third party;**

20 **(ii) has indicated availability to accept a new assignment**
21 **with a third party; and**

22 **(iii) is not offered a new assignment that is within the**
23 **labor market and that has substantially equivalent**
24 **compensation, benefits, and working conditions;**

25 **the individual is eligible for benefits, subject to the waiting**
26 **period as set forth in IC 22-4-14-4.**

27 **(C) The failure of the individual to contact the temporary**
28 **employment agency is not considered a disqualification if**
29 **the temporary employment firm has violated any provision**
30 **of state or federal law protecting employees of temporary**
31 **employment with respect to the individual.**

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

39 (1) separation initiated by an employer for falsification of an
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 51. IC 22-4-15-2, AS AMENDED BY P.L.290-2001,
15 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2003]: Sec. 2. (a) With respect to benefit periods established
17 on and after July 3, 1977, an individual is ineligible for waiting period,
18 **if applicable**, or benefit rights, or extended benefit rights, if the
19 department finds that, being totally, partially, or part-totally
20 unemployed at the time when the work offer is effective or when the
21 individual is directed to apply for work, the individual fails without
22 good cause:

23 (1) to apply for available, suitable work when directed by the
24 commissioner, the deputy, or an authorized representative of the
25 department of workforce development or the United States
26 training and employment service;

27 (2) to accept, at any time after the individual is notified of a
28 separation, suitable work when found for and offered to the
29 individual by the commissioner, the deputy, or an authorized
30 representative of the department of workforce development or the
31 United States training and employment service, or an employment
32 unit; or

33 (3) to return to the individual's customary self-employment when
34 directed by the commissioner or the deputy.

35 (b) With respect to benefit periods established on and after July 6,
36 1980, the ineligibility shall continue for the week in which the failure
37 occurs and until the individual earns remuneration in employment
38 equal to or exceeding the weekly benefit amount of the individual's
39 claim in each of eight (8) weeks. If the qualification amount has not
40 been earned at the expiration of an individual's benefit period, the
41 unearned amount shall be carried forward to an extended benefit period
42 or to the benefit period of a subsequent claim.

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1 (c) With respect to extended benefit periods established on and after
 2 July 5, 1981, the ineligibility shall continue for the week in which the
 3 failure occurs and until the individual earns remuneration in
 4 employment equal to or exceeding the weekly benefit amount of the
 5 individual's claim in each of four (4) weeks.

6 (d) If an individual failed to apply for or accept suitable work as
 7 outlined in this section, the maximum benefit amount of the
 8 individual's current claim, as initially determined, shall be reduced by
 9 twenty-five percent (25%). If twenty-five percent (25%) of the
 10 maximum benefit amount is not an even dollar amount, the amount of
 11 such reduction shall be raised to the next higher even dollar amount.
 12 The maximum benefit amount of the individual's current claim may not
 13 be reduced by more than twenty-five percent (25%) during any benefit
 14 period or extended benefit period.

15 (e) In determining whether or not any such work is suitable for an
 16 individual, the department shall consider:

- 17 (1) the degree of risk involved to such individual's health, safety,
 18 and morals;
- 19 (2) the individual's physical fitness and prior training and
 20 experience;
- 21 (3) the individual's length of unemployment and prospects for
 22 securing local work in the individual's customary occupation; and
- 23 (4) the distance of the available work from the individual's
 24 residence.

25 However, work under substantially the same terms and conditions
 26 under which the individual was employed by a base-period employer,
 27 which is within the individual's prior training and experience and
 28 physical capacity to perform, shall be considered to be suitable work
 29 unless the claimant has made a bona fide change in residence which
 30 makes such offered work unsuitable to the individual because of the
 31 distance involved.

32 (f) Notwithstanding any other provisions of this article, no work
 33 shall be considered suitable and benefits shall not be denied under this
 34 article to any otherwise eligible individual for refusing to accept new
 35 work under any of the following conditions:

- 36 (1) If the position offered is vacant due directly to a strike,
 37 lockout, or other labor dispute.
- 38 (2) If the remuneration, hours, or other conditions of the work
 39 offered are substantially less favorable to the individual than
 40 those prevailing for similar work in the locality.
- 41 (3) If as a condition of being employed the individual would be
 42 required to join a company union or to resign from or refrain from



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1 joining a bona fide labor organization.

2 (4) If as a condition of being employed the individual would be
3 required to discontinue training into which the individual had
4 entered with the approval of the department.

5 (g) Notwithstanding subsection (e), with respect to extended benefit
6 periods established on and after July 5, 1981, "suitable work" means
7 any work which is within an individual's capabilities. However, if the
8 individual furnishes evidence satisfactory to the department that the
9 individual's prospects for obtaining work in the individual's customary
10 occupation within a reasonably short period are good, the
11 determination of whether any work is suitable work shall be made as
12 provided in subsection (e).

13 (h) With respect to extended benefit periods established on and after
14 July 5, 1981, no work shall be considered suitable and extended
15 benefits shall not be denied under this article to any otherwise eligible
16 individual for refusing to accept new work under any of the following
17 conditions:

18 (1) If the gross average weekly remuneration payable to the
19 individual for the position would not exceed the sum of:

20 (A) the individual's average weekly benefit amount for the
21 individual's benefit year; plus

22 (B) the amount (if any) of supplemental unemployment
23 compensation benefits (as defined in Section 501(c)(17)(D) of
24 the Internal Revenue Code) payable to the individual for such
25 week.

26 (2) If the position was not offered to the individual in writing or
27 was not listed with the department of workforce development.

28 (3) If such failure would not result in a denial of compensation
29 under the provisions of this article to the extent that such
30 provisions are not inconsistent with the applicable federal law.

31 (4) If the position pays wages less than the higher of:

32 (A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The
33 Fair Labor Standards Act of 1938), without regard to any
34 exemption; or

35 (B) the state minimum wage (IC 22-2-2).

36 (i) The department of workforce development shall refer individuals
37 eligible for extended benefits to any suitable work (as defined in
38 subsection (g)) to which subsection (h) would not apply.

39 SECTION 52. IC 22-4-15-3 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **Except as**
41 **provided in section 3.5 of this chapter**, an individual shall be
42 ineligible for waiting period, **if applicable**, or benefit rights for any

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1 week with respect to which ~~his~~ **the individual's** total or partial or
 2 part-total unemployment is due to a labor dispute at the factory,
 3 establishment, or other premises at which ~~he~~ **the individual** was last
 4 employed.

5 (b) This section shall not apply to an individual if:

6 (1) ~~he~~ **the individual** has terminated ~~his~~ **the individual's**
 7 employment, or ~~his~~ **the individual's** employment has been
 8 terminated, with the employer involved in the labor dispute; ~~or if~~

9 (2) the labor dispute which caused ~~his~~ **the individual's**
 10 unemployment has terminated and any period necessary to resume
 11 normal activities at ~~his~~ **the individual's** place of employment has
 12 elapsed; or ~~if~~

13 (3) all of the following conditions exist: ~~He~~

14 (A) **The individual** is not participating in or financing or
 15 directly interested in the labor dispute which caused ~~his~~ **the**
 16 **individual's** unemployment. ~~and he~~

17 (B) **The individual** does not belong to a grade or class of
 18 workers of which, immediately before the commencement of
 19 ~~his~~ **the individual's** unemployment, there were members
 20 employed at the same premises as ~~he~~; **the individual**, any of
 21 whom are participating in or financing or directly interested in
 22 the dispute. ~~and he~~

23 (C) **The individual** has not voluntarily stopped working, other
 24 than at the direction of ~~his~~ **the individual's** employer, in
 25 sympathy with employees in some other establishment or
 26 factory in which a labor dispute is in progress.

27 (c) If in any case separate branches of work which are commonly
 28 conducted as separate businesses in separate premises are conducted
 29 in separate departments of the same premises, each such department
 30 shall, for the purpose of this section, be deemed to be a separate
 31 factory, establishment, or other premises.

32 (d) Upon request of any claimant or employer involved in an issue
 33 arising under this section, the deputy shall, and in any other case the
 34 deputy may, refer claims of individuals with respect to whom there is
 35 an issue of the application of this section to an administrative law judge
 36 who shall make the initial determination with respect thereto, in
 37 accordance with the procedure in IC 22-4-17-3.

38 (e) Notwithstanding any other provisions of this article, an
 39 individual shall not be ineligible for waiting period, **if applicable**, or
 40 benefit rights under this section solely by reason of ~~his~~ **the individual's**
 41 failure or refusal to apply for or to accept recall to work or
 42 reemployment with an employer during the continuance of a labor



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1 dispute at the factory, establishment, or other premises of the employer,
 2 if the individual's last separation from the employer occurred prior to
 3 the start of the labor dispute and was permanent or for an indefinite
 4 period.

5 SECTION 53. IC 22-4-15-3.5 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) As used in this section,**
 8 **"shuts down operations" means the termination of business by the**
 9 **employer, whether due to:**

10 (1) a filing of a petition under 11 U.S.C. 501, 11 U.S.C. 1201,
 11 or 11 U.S.C. 1301; or

12 (2) cessation of business by the employer, whether or not
 13 dissolution procedures under IC 23-1 have been filed.

14 (b) If the total or partial or part-total unemployment of an
 15 individual due to a labor dispute at the factory, establishment, or
 16 other premises at which the individual was last employed ends
 17 because the employer shuts down business and the individual
 18 continues to be totally, partially, or part-totally unemployed, the
 19 individual is eligible for waiting period, if applicable, or benefit
 20 rights retroactive to the date of the individual's unemployment due
 21 to the labor dispute.

22 (c) Any benefits provided by a labor union or other associated
 23 fund to the individual during the period of the labor dispute, other
 24 than those provided under IC 22-4-5-1(a)(10), may not be
 25 considered remuneration for purposes of computing deductible
 26 income.

27 (d) Any retroactive benefits due to an individual under this
 28 section shall be limited to the maximum benefit periods provided
 29 in IC 22-4-12-4.

30 (e) Notwithstanding IC 22-4-14-11, benefits may be paid on the
 31 basis of service performed in seasonal employment to an individual
 32 who may be due retroactive benefits under this section who:

33 (1) has engaged in seasonal employment; and

34 (2) has filed a claim for benefits outside the operating period
 35 of seasonal employment.

36 (f) IC 22-4-14-3 applies only after the date the employer shuts
 37 down business.

38 (g) The department may use the procedures prescribed by
 39 IC 22-4-17-1 for the taking of claims in the instance of mass layoffs
 40 for claims made under this section.

41 SECTION 54. IC 22-4-15-4, AS AMENDED BY P.L.290-2001,
 42 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2003]: Sec. 4. (a) An individual ~~shall be~~ **is** ineligible for
 2 waiting period, **if applicable**, or benefit rights for any week with
 3 respect to which the individual receives, is receiving, or has received
 4 payments equal to or exceeding ~~his~~ **the individual's** weekly benefit
 5 amount in the form of:

6 (1) deductible income as defined and applied in IC 22-4-5-1 and
 7 IC 22-4-5-2; or

8 (2) any pension, retirement, or annuity payments, under any plan
 9 of an employer whereby the employer contributes a portion or all
 10 of the money. This disqualification shall apply only if some or all
 11 of the benefits otherwise payable are chargeable to the experience
 12 or reimbursable account of ~~such the~~ employer, or would have
 13 been chargeable except for the application of this chapter. For ~~the~~
 14 purposes of this subdivision, ~~(2)~~, federal old age, survivors, and
 15 disability insurance benefits are not considered payments under
 16 a plan of an employer whereby the employer maintains the plan
 17 or contributes a portion or all of the money to the extent required
 18 by federal law.

19 (b) If the payments described in subsection (a) are less than ~~his~~ **the**
 20 **individual's** weekly benefit amount, an otherwise eligible individual
 21 ~~shall be~~ not be ineligible and shall be entitled to receive for ~~such the~~
 22 week benefits reduced by the amount of such payments.

23 (c) This section does not preclude an individual from delaying a
 24 claim to pension, retirement, or annuity payments until the individual
 25 has received the benefits to which the individual would otherwise be
 26 eligible under this chapter. Weekly benefits received before the date
 27 the individual elects to retire shall not be reduced by any pension,
 28 retirement, or annuity payments received on or after the date the
 29 individual elects to retire.

30 SECTION 55. IC 22-4-15-5 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Except as provided
 32 in IC ~~1971~~, 22-4-22, an individual ~~shall be~~ **is** ineligible for waiting
 33 period, **if applicable**, or benefit rights for any week with respect to
 34 which or a part of which ~~he~~ **the individual** receives, is receiving, has
 35 received, or is seeking unemployment benefits under an unemployment
 36 compensation law of another state or of the United States. ~~Provided,~~
 37 ~~that~~ **However**, this disqualification shall not apply if the appropriate
 38 agency of such other state or of the United States finally determines
 39 that ~~he~~ **the individual** is not entitled to such employment benefits,
 40 including benefits to federal civilian employees and ex-servicemen
 41 pursuant to 5 U.S.C. Chapter 85.

42 SECTION 56. IC 22-4-16-1 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Notwithstanding any
 2 other provisions of this article, if an individual knowingly fails to
 3 disclose amounts earned during any week in **his the individual's**
 4 waiting period, **if applicable**, benefit period, or extended benefit period
 5 with respect to which benefit rights or extended benefit rights are
 6 claimed, or knowingly fails to disclose or has falsified as to any fact
 7 **which that** would have disqualified **him the individual** or rendered
 8 **him the individual** ineligible for benefits or extended benefits or would
 9 have reduced **his the individual's** benefit rights or extended benefit
 10 rights during such a week, all of **his the individual's** wage credits
 11 established prior to the week of the falsification or failure to disclose
 12 shall be cancelled, and any benefits or extended benefits **which that**
 13 might otherwise have become payable to **him the individual** and any
 14 benefit rights or extended benefit rights based upon those wage credits
 15 shall be forfeited.

16 SECTION 57. IC 22-4-17-2, AS AMENDED BY P.L.290-2001,
 17 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2003]: Sec. 2. (a) When an individual files an initial claim, the
 19 department shall promptly make a determination of **his the**
 20 **individual's** status as an insured worker in a form prescribed by the
 21 board. A written notice of the determination of insured status shall be
 22 furnished **him to the individual** promptly. Each such determination
 23 shall be based on and include a written statement showing the amount
 24 of wages paid to the individual for insured work by each employer
 25 during the individual's base period and shall include a finding as to
 26 whether such wages meet the requirements for the individual to be an
 27 insured worker, and, if so, the week ending date of the first week of the
 28 individual's benefit period, the individual's weekly benefit amount, and
 29 the maximum amount of benefits that may be paid to the individual for
 30 weeks of unemployment in the individual's benefit period. For the
 31 individual who is not insured, the notice shall include the reason for the
 32 determination. Unless the individual, within ~~twenty (20)~~ **ten (10)** days
 33 after such determination was mailed to the individual's last known
 34 address, or otherwise delivered to the individual, asks a hearing thereon
 35 before an administrative law judge, such determination shall be final
 36 and benefits shall be paid or denied in accordance therewith.

37 (b) The department shall promptly furnish each employer in the base
 38 period whose experience or reimbursable account is potentially
 39 chargeable with benefits to be paid to such individual with a notice in
 40 writing of the employer's benefit liability. Such notice shall contain the
 41 date, the name and social security account number of the individual,
 42 the ending date of the individual's base period, and the week ending



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1 date of the first week of the individual's benefit period. Such notice
 2 shall further contain information as to the proportion of benefits
 3 chargeable to the employer's experience or reimbursable account in
 4 ratio to the earnings of such individual from such employer. Unless the
 5 employer, within ~~twenty (20)~~ **ten (10)** days after such notice of benefit
 6 liability was mailed to the employer's last known address, or otherwise
 7 delivered to the employer, asks a hearing thereon before an
 8 administrative law judge, such determination shall be final and benefits
 9 paid shall be charged in accordance therewith.

10 (c) An employing unit, including an employer, having knowledge
 11 of any facts which may affect an individual's eligibility or right to
 12 waiting period credits, **if applicable**, or benefits, shall notify the
 13 department of such facts within ~~twenty (20)~~ **ten (10)** days after the
 14 mailing of notice that a former employee has filed an initial or
 15 additional claim for benefits on a form prescribed by the board.

16 (d) In addition to the foregoing determination of insured status by
 17 the department, the deputy shall, throughout the benefit period,
 18 determine the claimant's eligibility with respect to each week for which
 19 the claimant claims waiting period credit, **if applicable**, or benefit
 20 rights, the validity of the claimant's claim therefor, and the cause for
 21 which the claimant left the claimant's work, or may refer such claim to
 22 an administrative law judge who shall make the initial determination
 23 with respect thereto in accordance with the procedure in IC 22-4-17-3.

24 (e) In cases where the claimant's benefit eligibility or
 25 disqualification is disputed, the department shall promptly notify the
 26 claimant and the employer or employers directly involved or connected
 27 with the issue raised as to the validity of such claim, the eligibility of
 28 the claimant for waiting period credit, **if applicable**, or benefits, or the
 29 imposition of a disqualification period or penalty, or the denial thereof,
 30 and of the cause for which the claimant left the claimant's work, of such
 31 determination and the reasons thereof. Except as otherwise hereinafter
 32 provided in this subsection regarding parties located in Alaska, Hawaii,
 33 and Puerto Rico, unless the claimant or such employer, within ~~twenty~~
 34 ~~(20)~~ **ten (10)** days after such notification was mailed to the claimant's
 35 or the employer's last known address, or otherwise delivered to the
 36 claimant or the employer, asks a hearing before an administrative law
 37 judge thereon, such decision shall be final and benefits shall be paid or
 38 denied in accordance therewith. With respect to notice of disputed
 39 administrative determination or decision mailed or otherwise delivered
 40 to the claimant or employer either of whom is located in Alaska,
 41 Hawaii, or Puerto Rico, unless such claimant or employer, within
 42 ~~twenty-five (25)~~ **fifteen (15)** days after such notification was mailed to

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1 the claimant's or employer's last known address or otherwise delivered
 2 to the claimant or employer, asks a hearing before an administrative
 3 law judge thereon, such decision shall be final and benefits shall be
 4 paid or denied in accordance therewith. If such hearing is desired, the
 5 request therefor shall be filed with the commissioner in writing within
 6 the prescribed periods as above set forth in this subsection and shall be
 7 in such form as the board may prescribe. In the event a hearing is
 8 requested by an employer or the department after it has been
 9 administratively determined that benefits should be allowed to a
 10 claimant, entitled benefits shall continue to be paid to said claimant
 11 unless said administrative determination has been reversed by a due
 12 process hearing. Benefits with respect to any week not in dispute shall
 13 be paid promptly regardless of any appeal.

14 (f) ~~No~~ A person may **not** participate on behalf of the department in
 15 any case in which the person is an interested party.

16 (g) Solely on the ground of obvious administrative error appearing
 17 on the face of an original determination, and within the benefit year of
 18 the affected claims, the commissioner, or a representative authorized
 19 by the commissioner to act in the commissioner's behalf, may
 20 reconsider and direct the deputy to revise the original determination so
 21 as to correct the obvious error appearing therein. Time for filing an
 22 appeal and requesting a hearing before an administrative law judge
 23 regarding the determinations handed down pursuant to this subsection
 24 shall begin on the date following the date of revision of the original
 25 determination and shall be filed with the commissioner in writing
 26 within the prescribed periods as above set forth in subsection (c).

27 (h) Notice to the employer and the claimant that the determination
 28 of the department is final if a hearing is not requested shall be
 29 prominently displayed on the notice of the determination which is sent
 30 to the employer and the claimant.

31 SECTION 58. IC 22-4-24.5-1, AS AMENDED BY P.L.1-2002,
 32 SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2003]: Sec. 1. (a) The skills 2016 training fund is established
 34 to do the following:

35 (1) Administer the costs of the skills 2016 training program
 36 established by IC 22-4-10.5.

37 (2) Undertake any program or activity that furthers the purposes
 38 of IC 22-4-10.5.

39 (3) Refund skills 2016 training assessments erroneously collected
 40 and deposited in the fund.

41 (b) ~~Subject to subsection (j), fifty-five~~ **Ninety-five** percent (**55%**)
 42 (**95%**) of the money in the fund shall be allocated to the state

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1 educational institution established under IC 20-12-61. The money so
2 allocated to that state educational institution shall be used as follows:

3 (1) An amount to be determined annually shall be allocated to the
4 state educational institution established under IC 20-12-61 for its
5 costs in administering the training programs described in
6 subsection ~~(b)~~ **(a)**. However, the amount so allocated may not
7 exceed ~~fifteen~~ **twelve and one-half** percent ~~(15%)~~ **(12.5%)** of the
8 total amount of money allocated under this subsection.

9 (2) After the allocation made under subdivision (1), forty percent
10 (40%) shall be used to provide training to participants in joint
11 labor and management building trades apprenticeship programs
12 approved by the United States Department of Labor's Bureau of
13 Apprenticeship Training.

14 (3) After the allocation made under subdivision (1), forty percent
15 (40%) shall be used to provide training to participants in joint
16 labor and management industrial apprenticeship programs
17 approved by the United States Department of Labor's Bureau of
18 Apprenticeship Training.

19 (4) After the allocation made under subdivision (1), twenty
20 percent (20%) shall be used to provide training to industrial
21 employees not covered by subdivision (2).

22 ~~(c) Subject to subsection (j);~~ The remainder of the money in the
23 fund shall be allocated as follows:

24 (1) An amount not to exceed one million dollars (\$1,000,000)
25 shall be allocated to the department of workforce development
26 annually for technology needs of the department.

27 ~~(2) An amount not to exceed four hundred fifty thousand dollars~~
28 ~~(\$450,000) shall be allocated annually for training and counseling~~
29 ~~assistance under IC 22-4-14-2 provided by state educational~~
30 ~~institutions (as defined in IC 20-12-0.5-1) or counseling provided~~
31 ~~by the department of workforce development for individuals who:~~

32 ~~(A) have been unemployed for at least four (4) weeks;~~

33 ~~(B) are not otherwise eligible for training and counseling~~
34 ~~assistance under any other program; and~~

35 ~~(C) are not participating in programs that duplicate those~~
36 ~~programs described in IC 22-4-25-1(e).~~

37 ~~Training or counseling provided under IC 22-4-14-2 does not~~
38 ~~excuse the claimant from complying with the requirements of~~
39 ~~IC 22-4-14-3. Eligibility for training and counseling assistance~~
40 ~~under this subdivision shall not be determined until after the~~
41 ~~fourth week of eligibility for unemployment training~~
42 ~~compensation benefits.~~



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1 ~~(2)~~ (2) An amount to be determined annually shall be set aside for
2 the payment of refunds from the fund.

3 ~~(3)~~ (3) The remainder of the money in the fund after the
4 allocations provided for in subsection (b) and subdivisions (1)
5 through ~~(2)~~ (2) shall be allocated to other incumbent worker
6 training programs.

7 (d) The fund shall be administered by the board. However, all
8 disbursements from the fund must be recommended by the incumbent
9 workers training board and approved by the board as required by
10 IC 22-4-18.3-6.

11 (e) The treasurer of state shall invest the money in the fund not
12 currently needed to meet the obligations of the fund in the same
13 manner as other public money may be invested. Interest that accrues
14 from these investments shall be deposited in the fund.

15 (f) Money in the fund at the end of a state fiscal year does not revert
16 to the state general fund.

17 (g) The fund consists of the following:

18 (1) Assessments deposited in the fund.

19 (2) Earnings acquired through the use of money belonging to the
20 fund.

21 (3) Money received from the fund from any other source.

22 (4) Interest earned from money in the fund.

23 (5) Interest and penalties collected.

24 (h) All money deposited or paid into the fund is appropriated
25 annually for disbursements authorized by this section.

26 (i) Any balance in the fund does not lapse but is available
27 continuously to the department for expenditures consistent with this
28 chapter.

29 ~~(j) If the fund ratio (as described in IC 22-4-11-3) is less than or~~
30 ~~equal to 1.5 or if the board determines that the solvency of the~~
31 ~~unemployment insurance benefit fund established by IC 22-4-26-1 is~~
32 ~~threatened, the funds assessed for or deposited in the skills 2016~~
33 ~~training fund shall be directed or transferred to the unemployment~~
34 ~~insurance benefit fund.~~

35 SECTION 59. IC 22-4-25-1, AS AMENDED BY P.L.290-2001,
36 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2003]: Sec. 1. (a) There is created in the state treasury a
38 special fund to be known as the special employment and training
39 services fund. All interest on delinquent contributions and penalties
40 collected under this article, together with any voluntary contributions
41 tendered as a contribution to this fund **and amounts deposited as**
42 **required by IC 22-4-10.5-7(b)**, shall be paid into this fund. The



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1 money shall not be expended or available for expenditure in any
2 manner which would permit their substitution for (or a corresponding
3 reduction in) federal funds which would in the absence of said money
4 be available to finance expenditures for the administration of this
5 article, but nothing in this section shall prevent said money from being
6 used as a revolving fund to cover expenditures necessary and proper
7 under the law for which federal funds have been duly requested but not
8 yet received, subject to the charging of such expenditures against such
9 funds when received. The money in this fund shall be used by the board
10 for the payment of refunds of interest on delinquent contributions and
11 penalties so collected, for the payment of costs of administration which
12 are found not to have been properly and validly chargeable against
13 federal grants or other funds received for or in the employment and
14 training services administration fund, on and after July 1, 1945. Such
15 money shall be available either to satisfy the obligations incurred by
16 the board directly, or by transfer by the board of the required amount
17 from the special employment and training services fund to the
18 employment and training services administration fund. No expenditure
19 of this fund shall be made unless and until the board finds that no other
20 funds are available or can properly be used to finance such
21 expenditures, except that expenditures from said fund may be made for
22 the purpose of acquiring lands and buildings or for the erection of
23 buildings on lands so acquired which are deemed necessary by the
24 board for the proper administration of this article. The board shall order
25 the transfer of such funds or the payment of any such obligation or
26 expenditure and such funds shall be paid by the treasurer of state on
27 requisition drawn by the board directing the auditor of state to issue the
28 auditor's warrant therefor. Any such warrant shall be drawn by the state
29 auditor based upon vouchers certified by the board or the
30 commissioner. The money in this fund is hereby specifically made
31 available to replace within a reasonable time any money received by
32 this state pursuant to 42 U.S.C. 502, as amended, which, because of
33 any action or contingency, has been lost or has been expended for
34 purposes other than or in amounts in excess of those approved by the
35 bureau of employment security. The money in this fund shall be
36 continuously available to the board for expenditures in accordance with
37 the provisions of this section and shall not lapse at any time or be
38 transferred to any other fund, except as provided in this article. Nothing
39 in this section shall be construed to limit, alter, or amend the liability
40 of the state assumed and created by IC 22-4-28, or to change the
41 procedure prescribed in IC 22-4-28 for the satisfaction of such liability,
42 except to the extent that such liability may be satisfied by and out of the

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1 funds of such special employment and training services fund created
2 by this section.

3 (b) The board, subject to the approval of the budget agency and
4 governor, is authorized and empowered to use all or any part of the
5 funds in the special employment and training services fund for the
6 purpose of acquiring suitable office space for the department by way
7 of purchase, lease, contract, or in any part thereof to purchase land and
8 erect thereon such buildings as the board determines necessary or to
9 assist in financing the construction of any building erected by the state
10 or any of its agencies wherein available space will be provided for the
11 department under lease or contract between the department and the
12 state or such other agency. The commissioner may transfer from the
13 employment and training services administration fund to the special
14 employment and training services fund amounts not exceeding funds
15 specifically available to the commissioner for that purpose equivalent
16 to the fair, reasonable rental value of any land and buildings acquired
17 for its use until such time as the full amount of the purchase price of
18 such land and buildings and such cost of repair and maintenance
19 thereof as was expended from the special employment and training
20 services fund has been returned to such fund.

21 (c) The board may also transfer from the employment and training
22 services administration fund to the special employment and training
23 services fund amounts not exceeding funds specifically available to the
24 commissioner for that purpose equivalent to the fair, reasonable rental
25 value of space used by the department in any building erected by the
26 state or any of its agencies until such time as the department's
27 proportionate amount of the purchase price of such building and the
28 department's proportionate amount of such cost of repair and
29 maintenance thereof as was expended from the special employment and
30 training services fund has been returned to such fund.

31 (d) Whenever the balance in the special employment and training
32 services fund is deemed excessive by the board, the board shall order
33 payment into the unemployment insurance benefit fund of the amount
34 of the special employment and training services fund deemed to be
35 excessive.

36 (e) Subject to the approval of the board, the commissioner may use
37 not more than five million dollars (\$5,000,000) during a program year
38 for training provided by the state educational institution established
39 under IC 20-12-61 to participants in joint labor and management
40 apprenticeship programs approved by the United States Department of
41 Labor's Bureau of Apprenticeship Training. Of the money allocated for
42 training programs under this subsection, fifty percent (50%) is



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1 designated for industrial programs, and the remaining fifty (50%)
2 percent is designated for building trade programs.

3 **(f) The commissioner shall allocate an amount not to exceed**
4 **four hundred fifty thousand dollars (\$450,000) annually for**
5 **training and counseling assistance under IC 22-4-14-2 provided by**
6 **state educational institutions (as defined in IC 20-12-0.5-1) or**
7 **counseling provided by the department of workforce development**
8 **for individuals who:**

9 **(1) have been unemployed for at least four (4) weeks;**

10 **(2) are not otherwise eligible for training and counseling**
11 **assistance under any other program; and**

12 **(3) are not participating in programs that duplicate those**
13 **programs described in subsection (e).**

14 **Training or counseling provided under IC 22-4-14-2 does not**
15 **excuse the claimant from complying with the requirements of**
16 **IC 22-4-14-3. Eligibility for training and counseling assistance**
17 **under this subdivision shall not be determined until after the**
18 **fourth week of eligibility for unemployment training compensation**
19 **benefits. The training and counseling assistance programs funded**
20 **by this subsection must be approved by the United States**
21 **Department of Labor's Bureau of Apprenticeship Training.**

22 SECTION 60. IC 22-4-26-5 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Money
24 credited to the account of this state in the unemployment trust fund by
25 the Secretary of the Treasury of the United States pursuant to 42 U.S.C.
26 1103, as amended, may be requisitioned and used for the payment of
27 expenses incurred for the administration of this article and public
28 employment offices pursuant to a specific appropriation by the general
29 assembly, provided that the expenses are incurred and the money is
30 requisitioned after the enactment of an appropriation statute which:

31 (1) specifies the purposes for which such money is appropriated
32 and the amounts appropriated therefor;

33 (2) **except as provided in subsection (i)**, limits the period within
34 which such money may be obligated to a period ending not more
35 than two (2) years after the date of the enactment of the
36 appropriation statute; and

37 (3) limits the total amount which may be obligated during a
38 twelve (12) month period beginning on July 1 and ending on the
39 next June 30 to an amount which does not exceed the amount by
40 which:

41 (A) the aggregate of the amounts credited to the account of
42 this state pursuant to 42 U.S.C. 1103, as amended, during such

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1 twelve (12) month period and the twenty-four (24) preceding
2 twelve (12) month periods; exceeds

3 (B) the aggregate of the amounts obligated by this state
4 pursuant to this section and amounts paid out for benefits and
5 charged against the amounts credited to the account of this
6 state during such twenty-five (25) twelve (12) month periods.

7 (b) For the purposes of this section, amounts obligated by this state
8 during any such twelve (12) month period shall be charged against
9 equivalent amounts which were first credited and which have not
10 previously been so charged, except that no amount obligated for
11 administration of this article and public employment offices during any
12 such twelve (12) month period may be charged against any amount
13 credited during such twelve (12) month period earlier than the
14 fourteenth preceding such twelve (12) month period.

15 (c) Amounts credited to the account of this state pursuant to 42
16 U.S.C. 1103, as amended, may not be obligated except for the payment
17 of cash benefits to individuals with respect to their unemployment and
18 for the payment of expenses incurred for the administration of this
19 article and public employment offices pursuant to this section.

20 (d) Money appropriated as provided in this section for the payment
21 of expenses incurred for the administration of this article and public
22 employment offices pursuant to this section shall be requisitioned as
23 needed for payment of obligations incurred under such appropriation
24 and upon requisition shall be deposited in the employment and training
25 services administration fund but, until expended, shall remain a part of
26 the unemployment insurance benefit fund. The commissioner shall
27 maintain a separate record of the deposit, obligation, expenditure, and
28 return of funds so deposited. If any money so deposited is for any
29 reason not to be expended for the purpose for which it was
30 appropriated, or if it remains unexpended at the end of the period
31 specified by the statute appropriating such money, it shall be
32 withdrawn and returned to the Secretary of the Treasury of the United
33 States for credit to this state's account in the unemployment trust fund.

34 **(e) There is appropriated out of the funds made available to**
35 **Indiana under Section 903 of the Social Security Act, as amended**
36 **by Section 209 of the Temporary Extended Unemployment**
37 **Compensation Act of 2002 (which is Title II of the federal Jobs**
38 **Creation and Worker Assistance Act of 2002, Pub.L107-147), one**
39 **hundred sixty million dollars (\$160,000,000) to the department of**
40 **workforce development. The appropriation made by this**
41 **subsection is available for ten (10) state fiscal years beginning with**
42 **the state fiscal year beginning July 1, 2003. Unencumbered money**

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1 at the end of a state fiscal year does not revert to the state general
2 fund.

3 (f) Money appropriated under subsection (e) is subject to the
4 requirements of IC 22-4-37-1.

5 (g) Money appropriated under subsection (e) may be used only
6 for the following purposes:

7 (1) The administration of the Unemployment Insurance (UI)
8 program and the Wagner Peyser public employment office
9 program.

10 (2) Acquiring land and erecting buildings for the use of the
11 department of workforce development.

12 (3) Improvements, facilities, paving, landscaping, and
13 equipment repair and maintenance that may be required by
14 the department of workforce development.

15 (h) In accordance with the requirements of subsection (g), the
16 department of workforce development may allocate up to the
17 following amounts from the amount described in subsection (e) for
18 the following purposes:

19 (1) Fifty million dollars (\$50,000,000) to be used for the
20 modernization of the Unemployment Insurance (UI) system.

21 (2) Fifty million dollars (\$50,000,000) for the JOBS proposal
22 to meet the workforce needs of Hoosier employers in high
23 wage, high skill, high demand occupations for the period
24 beginning July 1, 2003, and ending June 30, 2005.

25 (3) Sixty million dollars (\$60,000,000) to provide Hoosier
26 workers designated by the department of workforce
27 development with thirteen (13) additional weeks of state
28 funded UI benefits in order to combat the adverse nature of
29 long term unemployment.

30 (i) The amount appropriated under subsection (e) for the
31 payment of expenses incurred in the administration of this article
32 and public employment is not required to be obligated within the
33 two (2) year period described in subsection (a)(2).

34 SECTION 61. IC 22-4-43 IS ADDED TO THE INDIANA CODE
35 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2003]:

37 **Chapter 43. Work Sharing**

38 **Sec. 1. The following definitions apply throughout this chapter:**

39 (1) "Affected employee" means an individual who has been
40 continuously on the payroll of an affected unit for at least
41 three (3) months before the employing unit submits a work
42 sharing plan.

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- 1 **(2) "Affected unit" means a specific plant, department, shift,**
- 2 **or other definable unit of an employing unit:**
- 3 **(A) that has at least two (2) employees; and**
- 4 **(B) to which an approved work sharing plan applies.**
- 5 **(3) "Approved work sharing plan" means a plan that satisfies**
- 6 **the purpose set forth in section 2 of this chapter and has the**
- 7 **approval of the commissioner.**
- 8 **(4) "Commissioner" means the commissioner of workforce**
- 9 **development appointed under IC 22-4.1-3-1.**
- 10 **(5) "Normal weekly work hours" means the lesser of:**
- 11 **(A) the number of hours that an employee in the affected**
- 12 **unit works when the unit is operating on its normal**
- 13 **full-time basis; or**
- 14 **(B) forty (40) hours.**
- 15 **(6) "Work sharing benefit" means a benefit payable to an**
- 16 **affected employee for work performed under an approved**
- 17 **work sharing plan, but does not include benefits that are**
- 18 **otherwise payable under this article.**
- 19 **(7) "Work sharing employer" means an employing unit for**
- 20 **which a work sharing plan has been approved.**
- 21 **(8) "Work sharing plan" means a plan of an employing unit**
- 22 **under which:**
- 23 **(A) normal weekly work hours of affected employees are**
- 24 **reduced; and**
- 25 **(B) affected employees share the work that remains after**
- 26 **the reduction.**
- 27 **Sec. 2. The work sharing unemployment insurance program**
- 28 **seeks to:**
- 29 **(1) preserve the jobs of employees and the workforce of an**
- 30 **employer during lowered economic activity by reduction in**
- 31 **work hours or workdays rather than by a layoff of some**
- 32 **employees while other employees continue their normal**
- 33 **weekly work hours or workdays; and**
- 34 **(2) ameliorate the adverse effect of reduction in business**
- 35 **activity by providing benefits for the part of the normal**
- 36 **weekly work hours or workdays in which an employee does**
- 37 **not work.**
- 38 **Sec. 3. An employing unit that wishes to participate in the work**
- 39 **sharing unemployment insurance program shall submit to the**
- 40 **commissioner a written work sharing plan.**
- 41 **Sec. 4. (a) Within fifteen (15) days after receipt of a work**
- 42 **sharing plan, the commissioner shall give written approval or**

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1 disapproval of the plan to the employing unit.

2 (b) The decision of the commissioner to disapprove a work
3 sharing plan is final and may not be appealed.

4 (c) An employing unit may submit a new work sharing plan not
5 less than fifteen (15) days after disapproval of a work sharing plan.

6 Sec. 5. The commissioner shall approve a work sharing plan
7 that meets the following requirements:

8 (1) The work sharing plan must apply to:

9 (A) at least ten percent (10%) of the employees in an
10 affected unit; or

11 (B) at least twenty (20) employees in an affected unit.

12 (2) The normal weekly work hours of affected employees in
13 the affected unit shall be reduced by at least ten percent
14 (10%), but the reduction may not exceed fifty percent (50%)
15 unless waived by the commissioner.

16 Sec. 6. A work sharing plan must:

17 (1) identify the affected unit;

18 (2) identify each employee in the affected unit by:

19 (A) name;

20 (B) Social Security number; and

21 (C) any other information the commissioner requires;

22 (3) specify an expiration date that is not more than six (6)
23 months after the effective date of the work sharing plan;

24 (4) specify the effect that the work sharing plan will have on
25 the fringe benefits of each employee in the affected unit,
26 including:

27 (A) health insurance for hospital, medical, dental, and
28 similar services;

29 (B) retirement benefits under benefit pension plans as
30 defined in the federal Employee Retirement Income
31 Security Act (29 U.S.C. 1001 et seq.);

32 (C) holiday and vacation pay;

33 (D) sick leave; and

34 (E) similar advantages;

35 (5) certify that:

36 (A) each affected employee has been continuously on the
37 payroll of the employing unit for three (3) months
38 immediately before the date on which the employing unit
39 submits the work sharing plan; and

40 (B) the total reduction in normal weekly work hours is in
41 place of layoffs that would have:

42 (i) affected at least the number of employees specified in

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1 section 5(1) of this chapter; and
 2 (ii) resulted in an equivalent reduction in work hours;
 3 and
 4 (6) contain the written approval of the collective bargaining
 5 agent for each collective bargaining agreement that covers
 6 any affected employee in the affected unit.
 7 Sec. 7. If a work sharing plan serves the work sharing employer
 8 as a transitional step to permanent staff reduction, the work
 9 sharing plan must contain a reemployment assistance plan for each
 10 affected employee that the work sharing employer develops with
 11 the commissioner.
 12 Sec. 8. The work sharing employer shall agree to:
 13 (1) submit reports that are necessary to administer the work
 14 sharing plan; and
 15 (2) allow the department to have access to all records
 16 necessary to:
 17 (A) verify the work sharing plan before its approval; and
 18 (B) monitor and evaluate the application of the work
 19 sharing plan after its approval.
 20 Sec. 9. (a) An approved work sharing plan may be modified if
 21 the modification meets the requirements for approval under
 22 section 6 of this chapter and the commissioner approves the
 23 modifications.
 24 (b) An employing unit may add an employee to a work sharing
 25 plan when the employee has been continuously on the payroll for
 26 three (3) months.
 27 (c) An approved modification of a work sharing plan may not
 28 change its expiration date.
 29 Sec. 10. (a) An affected employee is eligible under this chapter
 30 to receive work sharing benefits for each week in which the
 31 commissioner determines that the affected employee is:
 32 (1) able to work; and
 33 (2) available for more hours of work or full-time work for
 34 the worksharing employer.
 35 (b) An affected employee who otherwise is eligible may not be
 36 denied work sharing benefits for lack of effort to secure work as set
 37 forth in IC 22-4-14-3 or for failure to apply for available suitable
 38 work as set forth in IC 22-4-15-2 from a person other than the
 39 work sharing employer.
 40 (c) An affected employee shall apply for benefits under
 41 IC 22-4-17-1.
 42 (d) An affected employee who otherwise is eligible for benefits

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is:
(1) considered to be unemployed for the purpose of the work sharing unemployment insurance program; and
(2) not subject to the requirements of IC 22-4-14-2.

Sec. 11. The weekly work sharing unemployment compensation benefit due to an affected worker is determined in STEP FIVE of the following formula:

STEP ONE: Determine the weekly benefit that would be due to the affected employee under IC 22-4-12-4.

STEP TWO: Subtract the number of the employee's work hours under the approved work sharing plan from the number of the employee's normal work hours.

STEP THREE: Divide the STEP TWO result by the number of the employee's normal work hours.

STEP FOUR: Multiply the number determined in STEP ONE by the quotient determined in STEP THREE.

STEP FIVE: If the product determined under STEP FOUR is not a multiple of one dollar (\$1), round down to the nearest lower multiple of one dollar (\$1).

Sec. 12. (a) An affected employee is eligible to receive not more than twenty-six (26) weeks of work sharing benefits during each benefit year.

(b) The total amount of benefits payable under IC 22-4-12-4 and work sharing benefits payable under this chapter may not exceed the total payable for the benefit year under IC 22-4-12-4(a).

Sec. 13. During a week in which an affected employee who otherwise is eligible for benefits does not work for the work sharing employer:

(1) the individual shall be paid unemployment insurance benefits in accordance with IC 22-4-12; and

(2) the week does not count as a week for which a work sharing benefit is received.

Sec. 14. During a week in which an employee earns wages under an approved work sharing plan and other wages, the work sharing benefit shall be reduced by the same percentage that the combined wages are of wages for normal weekly work hours if the other wages:

(1) exceed the wages earned under the approved work sharing plan; and

(2) do not exceed ninety percent (90%) of the wages that the individual earns for normal weekly work hours.

This computation applies regardless of whether the employee

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1 earned the other wages from the work sharing employer or
2 another employer.

3 **Sec. 15. While an affected employee applies for or receives work**
4 **sharing benefits, the affected employee is not eligible for:**

- 5 (1) extended benefits under IC 22-4-12-4; or
6 (2) supplemental federal unemployment compensation.

7 **Sec. 16. Work sharing benefits shall be charged to the work**
8 **sharing employer's experience balance in the same manner as**
9 **unemployment insurance is charged under this article. Employers**
10 **liable for payments instead of contributions shall have work**
11 **sharing benefits attributed to service in their employ in the same**
12 **manner as unemployment insurance is attributed under this**
13 **article.**

14 **Sec. 17. The commissioner may revoke approval of an approved**
15 **work sharing plan for good cause, including:**

- 16 (1) conduct or an occurrence that tends to defeat the intent
17 and effective operation of the approved work sharing plan;
18 (2) failure to comply with an assurance in the approved work
19 sharing plan;
20 (3) unreasonable revision of a productivity standard of the
21 affected unit; and
22 (4) violation of a criterion on which the commissioner based
23 the approval of the work sharing plan.

24 **Sec. 18. This chapter expires January 1, 2006.**

25 SECTION 62. IC 22-4-44 IS ADDED TO THE INDIANA CODE
26 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2003]:

28 **Chapter 44. Expanded Unemployment Insurance Benefits While**
29 **in State Training**

30 **Sec. 1. It is the intent of the general assembly that:**

- 31 (1) a training benefits program be established to provide
32 unemployment insurance benefits to unemployed individuals
33 who participate in training programs necessary for their
34 reemployment;
35 (2) funding for the program be limited by a specified
36 maximum amount each fiscal year;
37 (3) individuals unemployed as a result of structural changes
38 in the economy and technological advances rendering their
39 skills obsolete must receive the highest priority for
40 participation in the program;
41 (4) individuals for whom suitable employment is available are
42 not eligible for additional benefits while participating in

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- training; and
- (5) the program must serve the following goals:
 - (A) Retraining should be available for those unemployed individuals whose skills are no longer in demand.
 - (B) To be eligible for retraining, an individual must have a long term attachment to the labor force.
 - (C) Training must enhance the individual's marketable skills and earning power.
 - (D) Retraining must be targeted to those industries or skills that are in high demand within the labor market.

Sec. 2. The following definitions apply throughout this chapter:

- (1) "High demand" means demand for employment that exceeds the supply of qualified workers for occupations or skill sets in a labor market area.
- (2) "State educational institution" has the meaning set forth in IC 20-12-0.5-1 and includes an equivalent educational institution in another state that also receives appropriations from the general assembly of the other state.
- (3) "Sufficient tenure" means earning a plurality of wages in a particular occupation or using a particular skill set during the base period and at least two (2) of the four (4) twelve (12) month periods immediately preceding the base period.
- (4) "Training benefits" means additional benefits paid under this chapter.
- (5) "Training program" means:
 - (A) an education program determined to be necessary as a prerequisite to vocational training after counseling at the state educational institution in which the individual enrolls under the individual's approved training program; or
 - (B) a vocational training program at a state educational institution that:
 - (i) is targeted to training for a high demand occupation. The assessment of high demand occupations authorized for training under this chapter must be substantially based on labor market and employment information developed by the department of workforce development in cooperation with the commissioner of labor under IC 22-1-1-8(2);
 - (ii) is likely to enhance the individual's marketable skills and earning power; and
 - (iii) meets the criteria for performance developed by the department of workforce development for the purpose of

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1 **determining those training programs eligible for funding**
 2 **under 29 U.S.C. 2911 et seq.**

3 **The term does not include any course of education primarily**
 4 **intended to meet the requirements of a baccalaureate or**
 5 **higher degree, unless the training meets specific requirements**
 6 **for certification, licensing, or specific skills necessary for the**
 7 **occupation.**

8 **Sec. 3. Subject to availability of funds, training benefits are**
 9 **available for an individual who meets all the following conditions:**

10 **(1) The individual is eligible for or has exhausted entitlement**
 11 **to unemployment compensation benefits.**

12 **(2) The individual is a dislocated worker who:**

13 **(A) has been terminated or received a notice of termination**
 14 **from employment;**

15 **(B) is eligible for or has exhausted entitlement to**
 16 **unemployment compensation benefits; and**

17 **(C) is unlikely to return to employment in the individual's**
 18 **principal occupation or previous industry because of a**
 19 **diminishing demand for the individual's skills in that**
 20 **occupation or industry.**

21 **(3) Except as provided under subdivision (4), the individual**
 22 **has demonstrated, through a work history, sufficient tenure**
 23 **in an occupation or in work with a particular skill set. This**
 24 **screening will take place during the assessment process.**

25 **(4) The individual is, after assessment of demand for the**
 26 **individual's occupation or skills in the individual's labor**
 27 **market, determined to need job related training to find**
 28 **suitable employment in the individual's labor market. The**
 29 **assessment of demand for the individual's occupation or skill**
 30 **sets must be substantially based on declining occupation or**
 31 **skill sets identified in local labor market areas by the**
 32 **department of workforce development.**

33 **(5) The individual develops an individual training program**
 34 **that is submitted to the commissioner for approval within**
 35 **sixty (60) days after the individual is notified by the**
 36 **department of the requirements of this section.**

37 **(6) The individual enters the approved training program**
 38 **within ninety (90) days after the date of the notification,**
 39 **unless the department determines that the training is not**
 40 **available during the ninety (90) day period, in which case the**
 41 **individual enters training as soon as it is available.**

42 **(7) The individual is enrolled in training approved under this**

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1 chapter on a full-time basis as determined by the state
2 educational institution and is making satisfactory progress in
3 the training as certified by the state educational institution.

4 **Sec. 4. An individual is not eligible for training benefits under**
5 **this chapter if the individual:**

- 6 (1) is a standby claimant who expects recall to the individual's
- 7 regular employer;
- 8 (2) has a definite recall date that is within six (6) months after
- 9 the date the individual has been laid off; or
- 10 (3) is unemployed due to regular seasonal employment as
- 11 defined in IC 22-4-8-4(a).

12 **Sec. 5. Benefits shall be paid as follows:**

- 13 (1) The total training benefit amount shall be fifty-two (52)
- 14 times the individual's weekly benefit amount, reduced by the
- 15 total amount of regular benefits and extended benefits paid or
- 16 considered paid with respect to the benefit year.
- 17 (2) The weekly benefit amount shall be the same as the
- 18 regular weekly amount payable during the applicable benefit
- 19 year and shall be paid under the same terms and conditions as
- 20 regular benefits. The training benefits shall be paid before any
- 21 extended benefits but not before any similar federally funded
- 22 program.
- 23 (3) Training benefits are not payable for weeks more than two
- 24 (2) years beyond the end of the benefit year of the regular
- 25 claim.

26 **Sec. 6. The provisions of IC 22-4-2-34(i) relating to exhaustees**
27 **and regular benefits do not apply to an individual otherwise**
28 **eligible for training benefits under this chapter when the**
29 **individual's benefit year ends before the training benefits are**
30 **exhausted and the individual is eligible for a new benefit year. The**
31 **individual will have the option of remaining on the original claim**
32 **or filing a new claim.**

33 **Sec. 7. An individual who receives training benefits under this**
34 **chapter or under any previous additional benefits program for**
35 **training is not eligible for training benefits under this chapter for**
36 **five (5) years after the last receipt of training benefits under this**
37 **chapter or under any previous additional benefits program for**
38 **training.**

39 **Sec. 8. All base period employers are interested parties to the**
40 **approval of training and the granting of training benefits.**

41 **Sec. 9. The department of workforce development in**
42 **cooperation with the commissioner of labor under IC 22-1-1-8(2)**

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1 must identify occupations and skill sets that are declining and
 2 occupations and skill sets that are in high demand. The department
 3 of workforce development shall update this information annually
 4 or more frequently if needed.

5 **Sec. 10.** The department may pay training benefits under section
 6 3 of this chapter but may not obligate expenditures beyond the
 7 appropriation made by the general assembly or beyond funds
 8 available to the department under IC 22-4-40-11. The department
 9 shall develop a procedure to ensure that expenditures do not
 10 exceed available funds and to prioritize access to funds when again
 11 available.

12 **Sec. 11.** The department shall adopt rules under IC 4-22-2 to
 13 implement this chapter.

14 SECTION 63. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS
 15 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 16 1, 2003]:

17 **Chapter 6. Protection for Temporary Employees in the**
 18 **Construction Trades**

19 **Sec. 1.** As used in this chapter, "benefits" means compensation
 20 provided in addition to wages, including any of the following:

- 21 (1) Accrual of seniority.
- 22 (2) Credit for length of service.
- 23 (3) Disability and health insurance.
- 24 (4) Holiday pay or time off.
- 25 (5) Pension entitlement accrual.
- 26 (6) Sick leave.
- 27 (7) Vacation leave or pay.

28 **Sec. 2.** As used in this chapter, "client company" means a
 29 business that leases the services of employees or receives services
 30 or functions through temporary employment agencies.

31 **Sec. 3.** As used in this chapter, "construction trades" means any
 32 trade or occupation involving construction, alteration, remodeling,
 33 repairing, wrecking or demolition, addition to, or improvement of
 34 any building, highway, road, railroad, dam, bridge, structure, or
 35 excavation.

36 **Sec. 4.** As used in this chapter, "department" refers to the
 37 department of labor.

38 **Sec. 5.** As used in this chapter, "liquidity fee" means a penalty
 39 charged by a temporary employment agency against:

- 40 (1) a temporary employee for accepting a position of
 41 employment with the client company; or
- 42 (2) a client company for hiring a temporary employee.



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1 **Sec. 6. As used in this chapter, "substantially equivalent work"**
2 **means work on jobs:**

- 3 **(1) the performance of which requires equal skill, effort, and**
4 **responsibility; and**
5 **(2) under similar working conditions.**

6 **Sec. 7. As used in this chapter, "temporary employee" means a**
7 **temporary employment agency employee who, in the course of**
8 **employment, performs personal services in the construction trades**
9 **on a temporary basis to a third party client company under the**
10 **direction and control of the third party client company. The term**
11 **does not include a person who is an independent contractor in the**
12 **construction trades under IC 22-3-6-1(b)(7).**

13 **Sec. 8. As used in this chapter, "temporary employment agency"**
14 **means an employer that for a fee:**

- 15 **(1) recruits;**
16 **(2) procures;**
17 **(3) refers;**
18 **(4) places; or**
19 **(5) employs;**

20 **workers to perform personal services on a temporary basis to a**
21 **third party client company under the direction and control of the**
22 **third party client company.**

23 **Sec. 9. A temporary employment agency shall post in its labor**
24 **hall where temporary employees are required to appear for**
25 **assignment to work or, if there is no such labor hall, provide to**
26 **each temporary employee seeking employment a list of all client**
27 **companies at which work is available through the temporary**
28 **employment agency. The list must include the following for each**
29 **job opportunity posted:**

- 30 **(1) The name and address of the client company and the exact**
31 **address of the worksite, directions to the worksite, and a**
32 **telephone number at which a temporary employee could be**
33 **reached in an emergency situation.**
34 **(2) The type of job opportunity for temporary employees.**
35 **(3) A detailed description of the work to be performed by the**
36 **temporary employee, including any requirements for special**
37 **attire, accessories, tools, or safety equipment.**
38 **(4) The method of computing compensation and the amount**
39 **of compensation and benefits to be paid for the work, and the**
40 **overtime rate of compensation if it might be available.**
41 **(5) Any cost of the transportation to the temporary employee.**
42 **(6) The duration of the work to be performed by the**

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- temporary employee, including:
 - (A) the time of day the work will begin;
 - (B) the time of day the work will end;
 - (C) the schedule of days on which the work will be performed;
 - (D) when the work is expected to end; and
 - (E) whether there is any possibility of overtime work or extension of the work past the anticipated end date.
- (7) Any safety or hazardous material information that is available to the temporary employment agency shall be made available to the temporary employee. The information must include, but is not limited to, a complete and accurate description of worksite hazards to which the temporary employee may become exposed, including any hazardous materials that the temporary employee may be required to use or handle and any physical conditions or work practices that do not comply with applicable occupational health and safety standards.
- (8) Whether a meal is provided, either by the temporary employment agency or the client company, and any cost of the meal to the temporary employee.

Sec. 10. A temporary employment agency shall:

- (1) compensate temporary employees for work performed in the manner of payment set forth in IC 22-2-5-1;
- (2) offer pay and benefits equal to those provided to the permanent employees of the client company to temporary employees who have been employed at the premises of the client company for a total of at least ninety (90) days, whether or not continuously, and who perform substantially equivalent work compared to employees of the client company where the temporary employees work;
- (3) subject to subdivision (2), compensate temporary employees at a rate at or above the federal minimum wage, which shall not be reduced to less than the federal minimum wage by deductions other than those permitted by federal or state law;
- (4) include a written notification with each payment of wages to the temporary employee, which shall be included on the temporary employee's statement of earnings and deductions, specifying:
 - (A) the hourly rate paid for the temporary employee;
 - (B) the itemized deductions made from the wage payment

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- 1 made to the temporary employee by the temporary
- 2 employment agency; and
- 3 (C) an itemized list of benefits provided to the temporary
- 4 employee by the temporary employment agency; and
- 5 (5) provide each temporary employee with an annual earnings
- 6 summary not later than February 1 for the preceding
- 7 calendar year.

8 **Sec. 11. A temporary employment agency shall not charge a**
 9 **temporary employee:**

- 10 (1) for safety equipment, clothing, tools, accessories, or any
- 11 other items required by the nature of the work, either by law,
- 12 custom, or a requirement of the client company. This
- 13 subdivision does not preclude the temporary employment
- 14 agency from charging the temporary employee the market
- 15 value of items temporarily provided to the temporary
- 16 employee by the temporary employment agency if the
- 17 temporary employee willfully fails to return the items to the
- 18 temporary employment agency; however, a charge may not
- 19 be made for items damaged through ordinary use or lost
- 20 through no fault of the temporary employee;
- 21 (2) for merchandise or supplies other than those referenced in
- 22 subdivision (1) that the temporary employment agency makes
- 23 available for purchase at a higher price than merchandise or
- 24 supplies sold to others, as provided in IC 22-2-4-3;
- 25 (3) to transport the temporary employee to or from a
- 26 worksite;
- 27 (4) for directly or indirectly cashing a temporary employee's
- 28 paycheck; or
- 29 (5) if a meal is provided at the worksite by the temporary
- 30 employment agency, more than the actual cost of providing
- 31 the meal, but the purchase of a meal may not be a condition
- 32 of employment.

33 **Sec. 12. (a) A temporary employment agency that operates a**
 34 **labor hall where temporary workers are required to appear for:**

- 35 (1) assignment to work; or
- 36 (2) payment of compensation;
- 37 shall provide facilities for temporary employees waiting at the
- 38 labor hall for a job assignment that includes restroom facilities,
- 39 drinking water, and sufficient seating.

40 (b) A temporary employment agency shall insure at the
 41 minimum rate required by the law of the state in which the motor
 42 vehicle is registered any motor vehicle owned or operated by the

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1 temporary employment agency and used for the transportation of
2 temporary employees.

3 (c) All advertisements of a temporary employment agency must
4 contain the correct name of the temporary employment agency and
5 one (1) of the following:

6 (1) The street address of the place of business of the
7 temporary employment agency.

8 (2) The correct telephone number of the temporary
9 employment agency at its place of business.

10 Sec. 13. (a) A temporary employment agency shall not restrict
11 the right of:

12 (1) a temporary employee to accept a permanent position with
13 a client company to whom the temporary employee is referred
14 for temporary employment; or

15 (2) the client company to offer employment to a temporary
16 employee of the temporary employment agency.

17 However, this chapter does not restrict the temporary employment
18 agency from receiving a reasonable liquidity fee from the client
19 company.

20 (b) A temporary employment agency shall not make or give, or
21 cause to be made or given any false, leading, or deceptive
22 advertisements, information, or representation concerning the
23 services, compensation, benefits, or work opportunities that the
24 client company will provide to the temporary employees.

25 Sec. 14. The worker's compensation insurance premiums of a
26 temporary employment agency shall be determined and paid based
27 on the experience rating of the client company for which the
28 temporary employee performs services if the client company has
29 sufficient worker's compensation premium volume to be
30 experience rated. Otherwise, the premiums shall be the rate
31 approved for an employer that cannot be experience rated.

32 Sec. 15. A temporary employment agency or client company
33 shall not:

- 34 (1) discharge;
- 35 (2) discipline; or
- 36 (3) penalize in any other manner;

37 a temporary employee because the temporary employee, or a
38 person acting on behalf of the temporary employee, reports a
39 violation or alleged violation of section 9, 10, 11, 12, or 13 of this
40 chapter to the temporary employment agency or to a local or state
41 official, or because the temporary employee, or a person acting on
42 behalf of the temporary employee, exercises any right under this

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1 chapter.

2 **Sec. 16. A temporary employment agency that violates section**
 3 **9, 11, 12, 13, or 15 of this chapter commits a Class A misdemeanor.**

4 **Sec. 17. (a) A temporary employee may bring a civil action**
 5 **against a temporary employment agency to enforce section 10 of**
 6 **this chapter and seek compensation for charges made in violation**
 7 **of section 11 of this chapter within two (2) years after the alleged**
 8 **violation.**

9 **(b) If a temporary employment agency violates section 10 of this**
 10 **chapter, the court may do the following:**

11 **(1) Award:**

12 **(A) treble damages for loss of wages and other benefits;**
 13 **and**

14 **(B) court costs and reasonable attorney's fees;**
 15 **to the prevailing temporary employee.**

16 **(2) Enjoin further violations of this chapter by the temporary**
 17 **employment agency.**

18 **Sec. 18. (a) The department and its authorized inspectors and**
 19 **agents shall enforce this chapter. The department and its**
 20 **inspectors and agents may visit and inspect, at all reasonable hours**
 21 **and as often as practicable and necessary, all establishments**
 22 **governed by this chapter.**

23 **(b) When requested in writing by the department, the attorney**
 24 **general shall assist the department in enforcing this chapter**
 25 **against all violations.**

26 **(c) In addition to the civil action that may be brought by the**
 27 **temporary employee under section 17(a) of this chapter, a**
 28 **temporary employment agency that violates this chapter may be**
 29 **assessed a civil penalty by the department of not less than two**
 30 **thousand five hundred dollars (\$2,500) and not more than five**
 31 **thousand dollars (\$5,000) for each offense. The department shall**
 32 **collect the civil penalties and shall disburse the civil penalties as**
 33 **reimbursement of wages to the temporary employees who have**
 34 **been found by the department to have been damaged by the**
 35 **temporary employment agency's failure to comply with this**
 36 **chapter, with any remaining balance deposited in the state general**
 37 **fund.**

38 **(d) A civil penalty assessed under subsection (c):**

39 **(1) is subject to IC 4-21.5-3-6; and**

40 **(2) becomes effective without a proceeding under IC 4-21.5-3**
 41 **unless a person requests an administrative review not later**
 42 **than thirty (30) days after notice of the assessment is given.**



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1 SECTION 64. IC 27-4-1-4, AS AMENDED BY P.L.130-2002,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 4. The following are hereby defined as unfair
4 methods of competition and unfair and deceptive acts and practices in
5 the business of insurance:

6 (1) Making, issuing, circulating, or causing to be made, issued, or
7 circulated, any estimate, illustration, circular, or statement:

8 (A) misrepresenting the terms of any policy issued or to be
9 issued or the benefits or advantages promised thereby or the
10 dividends or share of the surplus to be received thereon;

11 (B) making any false or misleading statement as to the
12 dividends or share of surplus previously paid on similar
13 policies;

14 (C) making any misleading representation or any
15 misrepresentation as to the financial condition of any insurer,
16 or as to the legal reserve system upon which any life insurer
17 operates;

18 (D) using any name or title of any policy or class of policies
19 misrepresenting the true nature thereof; or

20 (E) making any misrepresentation to any policyholder insured
21 in any company for the purpose of inducing or tending to
22 induce such policyholder to lapse, forfeit, or surrender his
23 insurance.

24 (2) Making, publishing, disseminating, circulating, or placing
25 before the public, or causing, directly or indirectly, to be made,
26 published, disseminated, circulated, or placed before the public,
27 in a newspaper, magazine, or other publication, or in the form of
28 a notice, circular, pamphlet, letter, or poster, or over any radio or
29 television station, or in any other way, an advertisement,
30 announcement, or statement containing any assertion,
31 representation, or statement with respect to any person in the
32 conduct of his insurance business, which is untrue, deceptive, or
33 misleading.

34 (3) Making, publishing, disseminating, or circulating, directly or
35 indirectly, or aiding, abetting, or encouraging the making,
36 publishing, disseminating, or circulating of any oral or written
37 statement or any pamphlet, circular, article, or literature which is
38 false, or maliciously critical of or derogatory to the financial
39 condition of an insurer, and which is calculated to injure any
40 person engaged in the business of insurance.

41 (4) Entering into any agreement to commit, or individually or by
42 a concerted action committing any act of boycott, coercion, or

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intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

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1 (C) Excessive or inadequate charges for premiums, policy
 2 fees, assessments, or rates, or making or permitting any unfair
 3 discrimination between persons of the same class involving
 4 essentially the same hazards, in the amount of premiums,
 5 policy fees, assessments, or rates charged or made for:
 6 (i) policies or contracts of reinsurance or joint reinsurance,
 7 or abstract and title insurance;
 8 (ii) policies or contracts of insurance against loss or damage
 9 to aircraft, or against liability arising out of the ownership,
 10 maintenance, or use of any aircraft, or of vessels or craft,
 11 their cargoes, marine builders' risks, marine protection and
 12 indemnity, or other risks commonly insured under marine,
 13 as distinguished from inland marine, insurance; or
 14 (iii) policies or contracts of any other kind or kinds of
 15 insurance whatsoever.

16 However, nothing contained in clause (C) shall be construed to
 17 apply to any of the kinds of insurance referred to in clauses (A)
 18 and (B) nor to reinsurance in relation to such kinds of insurance.
 19 Nothing in clause (A), (B), or (C) shall be construed as making or
 20 permitting any excessive, inadequate, or unfairly discriminatory
 21 charge or rate or any charge or rate determined by the department
 22 or commissioner to meet the requirements of any other insurance
 23 rate regulatory law of this state.

24 (8) Except as otherwise expressly provided by law, knowingly
 25 permitting or offering to make or making any contract or policy
 26 of insurance of any kind or kinds whatsoever, including but not in
 27 limitation, life annuities, or agreement as to such contract or
 28 policy other than as plainly expressed in such contract or policy
 29 issued thereon, or paying or allowing, or giving or offering to pay,
 30 allow, or give, directly or indirectly, as inducement to such
 31 insurance, or annuity, any rebate of premiums payable on the
 32 contract, or any special favor or advantage in the dividends,
 33 savings, or other benefits thereon, or any valuable consideration
 34 or inducement whatever not specified in the contract or policy; or
 35 giving, or selling, or purchasing or offering to give, sell, or
 36 purchase as inducement to such insurance or annuity or in
 37 connection therewith, any stocks, bonds, or other securities of any
 38 insurance company or other corporation, association, limited
 39 liability company, or partnership, or any dividends, savings, or
 40 profits accrued thereon, or anything of value whatsoever not
 41 specified in the contract. Nothing in this subdivision and
 42 subdivision (7) shall be construed as including within the

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definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or agent thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed agent thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, agent, or solicitor duly licensed under the laws of this state, but such broker, agent, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance agent or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of its or his right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of

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1 any nonprofit organization of agents or other workers in the
 2 insurance business shall not be interpreted, in itself, to constitute
 3 a combination in restraint of trade or as combining to create a
 4 monopoly as provided in this subdivision and subdivision (10).
 5 The enumeration in this chapter of specific unfair methods of
 6 competition and unfair or deceptive acts and practices in the
 7 business of insurance is not exclusive or restrictive or intended to
 8 limit the powers of the commissioner or department or of any
 9 court of review under section 8 of this chapter.

10 (12) Requiring as a condition precedent to the sale of real or
 11 personal property under any contract of sale, conditional sales
 12 contract, or other similar instrument or upon the security of a
 13 chattel mortgage, that the buyer of such property negotiate any
 14 policy of insurance covering such property through a particular
 15 insurance company, agent, or broker or brokers. However, this
 16 subdivision shall not prevent the exercise by any seller of such
 17 property or the one making a loan thereon, of his, her, or its right
 18 to approve or disapprove of the insurance company selected by
 19 the buyer to underwrite the insurance.

20 (13) Issuing, offering, or participating in a plan to issue or offer,
 21 any policy or certificate of insurance of any kind or character as
 22 an inducement to the purchase of any property, real, personal, or
 23 mixed, or services of any kind, where a charge to the insured is
 24 not made for and on account of such policy or certificate of
 25 insurance. However, this subdivision shall not apply to any of the
 26 following:

27 (A) Insurance issued to credit unions or members of credit
 28 unions in connection with the purchase of shares in such credit
 29 unions.

30 (B) Insurance employed as a means of guaranteeing the
 31 performance of goods and designed to benefit the purchasers
 32 or users of such goods.

33 (C) Title insurance.

34 (D) Insurance written in connection with an indebtedness and
 35 intended as a means of repaying such indebtedness in the
 36 event of the death or disability of the insured.

37 (E) Insurance provided by or through motorists service clubs
 38 or associations.

39 (F) Insurance that is provided to the purchaser or holder of an
 40 air transportation ticket and that:

41 (i) insures against death or nonfatal injury that occurs during
 42 the flight to which the ticket relates;

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- 1 (ii) insures against personal injury or property damage that
 2 occurs during travel to or from the airport in a common
 3 carrier immediately before or after the flight;
 4 (iii) insures against baggage loss during the flight to which
 5 the ticket relates; or
 6 (iv) insures against a flight cancellation to which the ticket
 7 relates.
- 8 (14) Refusing, because of the for-profit status of a hospital or
 9 medical facility, to make payments otherwise required to be made
 10 under a contract or policy of insurance for charges incurred by an
 11 insured in such a for-profit hospital or other for-profit medical
 12 facility licensed by the state department of health.
- 13 (15) Refusing to insure an individual, refusing to continue to issue
 14 insurance to an individual, limiting the amount, extent, or kind of
 15 coverage available to an individual, or charging an individual a
 16 different rate for the same coverage, solely because of that
 17 individual's blindness or partial blindness, except where the
 18 refusal, limitation, or rate differential is based on sound actuarial
 19 principles or is related to actual or reasonably anticipated
 20 experience.
- 21 (16) Committing or performing, with such frequency as to
 22 indicate a general practice, unfair claim settlement practices (as
 23 defined in section 4.5 of this chapter).
- 24 (17) Between policy renewal dates, unilaterally canceling an
 25 individual's coverage under an individual or group health
 26 insurance policy solely because of the individual's medical or
 27 physical condition.
- 28 (18) Using a policy form or rider that would permit a cancellation
 29 of coverage as described in subdivision (17).
- 30 (19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor
 31 vehicle insurance rates.
- 32 (20) Violating IC 27-8-21-2 concerning advertisements referring
 33 to interest rate guarantees.
- 34 (21) Violating IC 27-8-24.3 concerning insurance and health plan
 35 coverage for victims of abuse.
- 36 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 37 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
 38 insurance producers.
- 39 (24) Violating IC 27-1-38 concerning depository institutions.
- 40 **(25) Violating IC 22-3-3-13 concerning second injury fund**
 41 **assessments.**
- 42 **(26) Violating IC 22-3-7-16.1 concerning occupational disease**

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1 **second injury fund assessments.**

2 **SECTION 65. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding**
 3 **IC 5-16-7-6, as added by this act, the department of labor shall**
 4 **carry out the duties imposed upon it under IC 5-16-7, as amended**
 5 **by this act, under interim written guidelines approved by the**
 6 **commissioner of the department of labor.**

7 **(b) This SECTION expires on the earlier of:**

8 **(1) the date rules are adopted under IC 5-16-7-6, as added by**
 9 **this act; or**

10 **(2) December 31, 2003.**

11 **SECTION 66. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding**
 12 **IC 22-1-1-22, as added by this act, the department of labor shall**
 13 **carry out the duties imposed upon it under IC 22-1-1-22, as added**
 14 **by this act, under interim written guidelines approved by the**
 15 **commissioner of the department of labor.**

16 **(b) This SECTION expires on the earlier of:**

17 **(1) the date rules are adopted under IC 22-1-1-22, as added by**
 18 **this act; or**

19 **(2) March 1, 2004.**

20 **SECTION 67. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding**
 21 **IC 22-4-43-13, as added by this act, the unemployment insurance**
 22 **board shall carry out the duties imposed upon it under**
 23 **IC 22-4-43-13, as added by this act, under interim written**
 24 **guidelines recommended by the commissioner of workforce**
 25 **development and approved by the unemployment insurance board.**

26 **(b) This SECTION expires on the earlier of the following:**

27 **(1) The date rules are adopted under IC 22-4-43-13, as added**
 28 **by this act.**

29 **(2) December 31, 2004.**

30 **SECTION 68. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding**
 31 **IC 22-4-44-11, as added by this act, the department of workforce**
 32 **development shall carry out the duties imposed upon it under**
 33 **IC 22-4-44-11, as added by this act, under interim written**
 34 **guidelines recommended by the commissioner of workforce**
 35 **development and approved by the incumbent workers training**
 36 **board and the unemployment insurance board.**

37 **(b) This SECTION expires on the earlier of the following:**

38 **(1) The date rules are adopted under IC 22-4-44-11, as added**
 39 **by this act.**

40 **(2) December 31, 2004.**

41 **SECTION 69. [EFFECTIVE JULY 1, 2003] (a) The department**
 42 **of workforce development shall adopt rules under IC 22-4-2-12, as**

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1 **amended by this act, before January 1, 2005.**
2 **(b) This SECTION expires January 2, 2005.**
3 SECTION 70. IC 22-4-10.5-1 IS REPEALED [EFFECTIVE JULY
4 1, 2003].
5 SECTION 71. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1003, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-16-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: 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, **using a procedure that meets the requirements set forth in section 1.5 of this chapter, shall** determine in writing the following:

- (1) A classification of the labor to be employed in the performance of the contract for the project, divided into the following three (3) classes:
 - (A) Skilled labor.
 - (B) Semiskilled labor.

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(C) Unskilled labor.

(2) The wage per hour to be paid each of the classes.

In making its determination, the committee is not required to shall consider only information not presented to the committee at the meeting that is conducted in accordance with section 1.5 of this chapter. IC 5-14-1.5 (open door law) applies to a meeting of the committee.

(d) The rate of wages determined under subsection (c) shall not be less than the common construction wage for each of the three (3) classes of wages described in subsection (c) that are currently being paid in the county where the project is located.

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

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

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

(h) If a person has substantial reason to believe that a committee's determination under subsection (c) or an awarding agency's determination under subsection (g) does not comply with this chapter, the person may request, not later than ten (10) days after the date of the determination, that the department of labor review the determination:

- (1) to determine whether it complies with this chapter; and**
- (2) if the determination does not comply with this chapter, to establish the rate of wages for the project.**

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

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

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

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

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

~~(k)~~ **(l)** Notwithstanding any other law, this chapter does not apply to projects in which the actual construction costs less than one hundred fifty thousand dollars (\$150,000).

SECTION 2. IC 5-16-7-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. In making the determination required under section 1(c) of this chapter, the committee shall use a procedure that meets the following requirements:**

(1) The committee shall consider the following as evidence of the common construction wage currently being paid in the county where the project is located:

(A) Data presented by the department of workforce development.

(B) Collective bargaining agreements, if applicable.

(C) Other information submitted by interested parties.

(2) The evidence considered by the committee under subdivision (1) is limited to the wages and benefits currently being paid by construction industry employers.

(3) All testimony presented to the committee must be made under oath or affirmation.

(4) Any part of the evidence may be submitted in written form if doing so will expedite the meeting.

(5) Documentary evidence may be received in the form of a copy or an excerpt.

(6) To the extent necessary for full disclosure of all relevant facts and issues, the committee shall afford all interested parties the opportunity to present evidence and arguments and to respond to evidence presented by other interested parties.

(7) The committee's written determination must list the evidence or sources that the committee relied upon in making the determination.

SECTION 3. IC 5-16-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. The definitions in this section apply throughout this chapter:**

(1) "Common construction wage" means a scale of wages for each class of work described in section 1(c)(1) of this chapter that is

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not less than the common construction wage of all construction wages being paid in the county where a project is located, as determined by the committee described in section 1(b) of this chapter, ~~after having considered:~~

~~(A) reports from the department of workforce development; and~~

~~(B) any other information submitted by any person to the committee established under section 1(b) of this chapter.~~

using a procedure that meets the requirements set forth in section 1.5 of this chapter.

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

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

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

SECTION 4. IC 5-16-7-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. The department of labor shall adopt rules under IC 4-22-2 to implement this chapter.**

SECTION 5. IC 22-1-1-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 22. The commissioner of labor shall do the following:**

(1) Verify compliance with and investigate matters related to IC 22-3-2-14.5, IC 22-3-2-14.6, IC 22-3-7-34.5, and IC 22-3-7-34.6.

(2) Hire additional staff for the purpose of carrying the enforcement of IC 22-3-2-14.5, IC 22-3-2-14.6, IC 22-3-7-34.5, and IC 22-3-7-34.6.

(3) Adopt rules under IC 4-22-2 to implement IC 22-3-2-14.6 and IC 22-3-7-34.6.

SECTION 6. IC 22-3-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. (a) There is hereby created the worker's compensation board of Indiana, which shall consist of seven**

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(7) members, not more than four (4) of whom shall belong to the same political party, appointed by the governor, one (1) of whom ~~he the~~ **governor** shall designate as ~~chairman~~ **chair**. The ~~chairman~~ **chair** of said board shall be an attorney of recognized qualifications.

(b) Each member of said board shall hold office for four (4) years and until ~~his the member's~~ successor is appointed and qualified.

(c) Each member of the board shall devote ~~his the member's~~ entire time to the discharge of the duties of ~~his the member's~~ office and shall not hold any other position of trust or profit or engage in any occupation or business interfering with or inconsistent with the discharge of ~~his the member's~~ duties as such member.

(d) Any member of said board may be removed by the governor at any time for incompetency, neglect of duty, misconduct in office, or other good cause to be stated in writing in the order of removal. In case of a vacancy in the membership of the said board, the governor shall appoint for the unexpired term.

(e) The budget agency, with the approval of the governor, shall approve the salaries of the members of the board and the secretary.

(f) The board may appoint a secretary and may remove such secretary. The secretary shall have authority to administer oaths and issue subpoenas in connection with the administration of IC 22-3-2 through IC 22-3-7.

(g) The board may appoint magistrates and may remove the magistrates.

(h) The board, subject to the approval of the governor, may employ and fix the compensations of such clerical and other assistants as it may deem necessary.

~~(h)~~ **(i)** The members of the board and its assistants shall be entitled to receive from the state their actual and necessary expenses while traveling on the business of the board, but such expenses shall be approved by the chairman of the board before payment is made.

~~(i)~~ **(j)** All salaries and expenses of the board shall be audited and paid out of the state treasury in the manner prescribed for similar expenses in other departments or branches of the state service.

SECTION 7. IC 22-3-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The worker's compensation board may adopt rules under IC 4-22-2 to carry into effect the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7).

(b) The worker's compensation board is authorized:

(1) to hear, determine, and review all claims for compensation under IC 22-3-2 through IC 22-3-7;



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- (2) to require medical service for injured employees;
- (3) to approve claims for medical service or attorney's fees and the charges for nurses and hospitals;
- (4) to approve agreements;
- (5) to modify or change awards;
- (6) to make conclusions of facts and rulings of law;
- (7) to certify questions of law to the court of appeals;
- (8) to approve deductions in compensation made by employers for amounts paid in excess of the amount required by law;
- (9) to approve agreements between an employer and an employee or the employee's dependents for the cash payment of compensation in a lump sum, or, in the case of a person under eighteen (18) years of age, to order cash payments;
- (10) to establish and maintain a list of independent medical examiners and to order physical examinations;
- (11) to subpoena witnesses **and order the production and examination of books, papers, and records;**
- (12) to administer oaths;
- (13) to apply to the circuit or superior court to enforce the attendance and testimony of witnesses and the production and examination of books, papers, and records;
- (14) to create and undertake a program designed to educate and provide assistance to employees and employers regarding the rights and remedies provided by IC 22-3-2 through IC 22-3-7, and to provide for informal resolution of disputes;
- (15) to assess and collect, on the board's own initiative or on the motion of a party, the penalties provided for in IC 22-3-2 through IC 22-3-7; ~~and~~
- (16) **to appoint board magistrates to determine issues arising under IC 22-3-2 through IC 22-3-7 subject to the limitations set forth in section 3.1(b) of this chapter; and**
- (17) to exercise all other powers and duties conferred upon the board by law.

SECTION 8. IC 22-3-1-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.1. (a) A magistrate appointed by the worker's compensation board may do the following:**

- (1) Administer an oath or affirmation that is required by law.**
- (2) Order that a subpoena be issued in a matter pending before the board.**
- (3) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.**



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(b) A magistrate appointed by the worker's compensation board may do the following:

- (1) Conduct a prehearing conference or an evidentiary hearing.**
- (2) Determine issues arising under IC 22-3-2 through IC 22-3-7 with the following exceptions:**
 - (A) Claims regarding the compensability of an injury or a disease arising out of and in the course of employment under IC 22-3-2-2(a) or IC 22-3-7-2(a).**
 - (B) A determination as to whether one (1) of the special defenses contained in IC 22-3-2-8 or IC 22-3-7-21(b) operates as a bar to the employee's claim.**
 - (C) A determination as to whether the employee is permanently and totally disabled for purposes of IC 22-3-3-10, IC 22-3-3-13, or IC 22-3-7-16.**
 - (D) The approval of settlement agreements under IC 22-3-2-15.**
 - (E) Issues involving a lack of diligence, bad faith, or an independent tort under IC 22-3-4-12.1.**

SECTION 9. IC 22-3-1-3.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.2. A magistrate shall report the magistrate's findings in an evidentiary hearing to the board. A board member shall enter the final order or award. The final order or award is subject to full board review under IC 22-3-4-7.**

SECTION 10. IC 22-3-2-2.5, AS ADDED BY P.L.235-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) As used in this section, "school to work student" refers to a student participating in on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).**

(b) Except as provided in IC 22-3-7-2.5, a school to work student is entitled to the following compensation and benefits under this article:

- (1) Medical benefits under IC 22-3-2 through IC 22-3-6.**
- (2) Permanent partial impairment compensation under IC 22-3-3-10. Permanent partial impairment compensation for a school to work student shall be paid in a lump sum upon agreement or final award.**
- (3) In the case that death results from the injury:**
 - (A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars (\$175,000), subject to section 8(c) of this chapter, payable upon agreement or final award to any dependents of the student under IC 22-3-3-18 through**



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IC 22-3-3-20, or, if the student has no dependents, to the student's parents; and

(B) burial compensation under IC 22-3-3-21.

(c) For the sole purpose of modifying an award under IC 22-3-3-27, a school to work student's average weekly wage is presumed to be equal to the federal minimum wage.

(d) A school to work student is not entitled to the following compensation under this article:

- (1) Temporary total disability compensation under IC 22-3-3-8.
- (2) Temporary partial disability compensation under IC 22-3-3-9.

(e) Except for remedies available under IC 5-2-6.1, recovery under subsection (b) is the exclusive right and remedy for:

- (1) a school to work student; and
- (2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student;

on account of personal injury or death by accident arising out of and in the course of school to work employment.

SECTION 11. IC 22-3-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a) ~~No~~ Each payment of compensation is allowed under IC 22-3-3-8, IC 22-3-3-9, IC 22-3-3-10, or IC 22-3-3-22 is reduced by twenty percent (20%) for an injury or death due to the employee's:**

- (1) ~~knowingly self-inflicted injury, his~~ intoxication;**
- (2) ~~his~~ commission of an offense; ~~his~~**
- (3) knowing **and willful** failure to use a safety appliance;**
- (4) ~~his~~ knowing **and willful** failure to obey a reasonable written or printed rule of the employer which has been posted in a conspicuous position in the place of work; or**
- (5) ~~his~~ knowing **and willful** failure to perform any statutory duty.**

~~The burden of proof is on the defendant.~~

(b) No compensation is allowed for an employee's knowing and willful self-inflicted injury or death.

(c) Each payment of compensation allowed under IC 22-3-3-8, IC 22-3-3-9, IC 22-3-3-10, or IC 22-3-3-22 shall be increased by thirty percent (30%) for an injury or a death due to the employer's intentional failure to comply with a statute or an administrative regulation regarding safety methods or installation or maintenance of safety appliances.

(d) The defendant has the burden of proof under subsections (a) and (b).

SECTION 12. IC 22-3-2-14.5, AS AMENDED BY P.L.202-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2003]: Sec. 14.5. (a) As used in this section, "independent contractor" refers to a person described in IC 22-3-6-1(b)(7).

(b) As used in this section, "person" means an individual, a proprietorship, a partnership, a joint venture, a firm, an association, a corporation, or other legal entity.

(c) An independent contractor who does not make an election under IC 22-3-6-1(b)(4) or IC 22-3-6-1(b)(5) is not subject to the compensation provisions of IC 22-3-2 through IC 22-3-6 and must file a statement with the department of state revenue in accordance with IC 6-3-7-5 and obtain a certificate of exemption.

(d) Together with the statement required in subsection (c), an independent contractor shall file annually with the department documentation in support of independent contractor status before being granted a certificate of exemption. The independent contractor must obtain clearance from the department of state revenue before issuance of the certificate.

(e) An independent contractor shall pay a filing fee in the amount of fifteen dollars (\$15) with the certificate filed under subsection (g). The fees collected under this subsection shall be deposited in the worker's compensation supplemental administrative fund. **and Thirty-four percent (34%) of the money in the fund shall be used allocated for all expenses the board incurs in administering this section. Sixty-six percent (66%) of the money in the fund shall be allocated for the enforcement of section 14.6 of this chapter, including the costs of hiring additional staff required by the department of labor.**

(f) The worker's compensation board shall maintain a data base consisting of certificates received under this section and on request may verify that a certificate was filed.

(g) A certificate of exemption must be filed with the worker's compensation board. The board shall indicate that the certificate has been filed by stamping the certificate with the date of receipt and returning a stamped copy to the person filing the certificate. A certificate becomes effective as of midnight seven (7) business days after the date file stamped by the worker's compensation board. The board shall maintain a data base containing the information required in subsections (d) and (f).

(h) A person who contracts for services of another person not covered by IC 22-3-2 through IC 22-3-6 to perform work must secure a copy of a stamped certificate of exemption filed under this section from the person hired. A person may not require a person who has provided a stamped certificate to have worker's compensation

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coverage. The worker's compensation insurance carrier of a person who contracts with an independent contractor shall accept a stamped certificate in the same manner as a certificate of insurance.

(i) A stamped certificate filed under this section is binding on and holds harmless from all claims:

- (1) a person who contracts with an independent contractor after receiving a copy of the stamped certificate; and
- (2) the worker's compensation insurance carrier of the person who contracts with the independent contractor.

The independent contractor may not collect compensation under IC 22-3-2 through IC 22-3-6 for an injury from a person or the person's worker's compensation carrier to whom the independent contractor has furnished a stamped certificate.

SECTION 13. IC 22-3-2-14.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 14.6. (a) As used in this section, "person" has the meaning set forth in section 14.5 of this chapter.**

(b) A person who does any of the following is subject to a civil penalty under this section:

- (1) Fails to obtain a copy of another person's stamped certificate of exemption as required under section 14.5(h) of this chapter before that person performs work on the person's behalf as an independent contractor.**
- (2) Fails to keep a copy of another person's stamped certificate of exemption on file as long as that person is performing work on the person's behalf as an independent contractor.**

(c) If the department of labor determines that a person has violated subsection (b)(1) or (b)(2), the department of labor may assess a civil penalty of not more than one thousand dollars (\$1,000) for each violation, plus any investigative costs incurred and documented by the department of labor. If the department of labor determines that a civil penalty is warranted, the department of labor shall consider the following factors in determining the amount of the penalty:

- (1) Whether the person performing work as an independent contractor meets the definition of an independent contractor under IC 22-3-6-1(b)(7).**
- (2) Whether the violation was an isolated event or part of a pattern of violations.**

(d) All civil penalties collected under this section shall be deposited in the worker's compensation board's second injury fund

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created under IC 22-3-3-13.

(e) A civil penalty assessed under subsection (c):

(1) is subject to IC 4-21.5-2-6; and

(2) becomes effective without a proceeding under IC 4-21.5-3, unless a person requests an administrative review not later than thirty (30) days after the notice of assessment is given.

(f) The department of labor shall provide copies of its determinations under this section to the worker's compensation board and the department of state revenue.

SECTION 14. IC 22-3-3-4, AS AMENDED BY P.L.31-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) After an injury and prior to an adjudication of permanent impairment, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of his **the employee's** injuries, and in addition thereto such surgical, hospital and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the state budget agency. If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.

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

(c) **After the employee's medical treatment begins, neither the employer nor the employer's insurance carrier has the right to transfer or otherwise redirect an employee's medical treatment to another physician unless:**

(1) the employee makes the transfer request;

(2) the attending physician requests that the physician's treatment of the employee be discontinued; or

(3) the worker's compensation board determines that there is

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good cause for the transfer.

(d) If the employer or the employer's insurance carrier desires to transfer or redirect the employee's medical treatment for good cause, the employer or the employer's insurance carrier shall file a transfer request with the worker's compensation board on forms prescribed by the board. A transfer may not occur until the worker's compensation board issues an order granting the transfer request.

(e) A representative of the employer or the employer's insurance carrier, including a case manager or a rehabilitation nurse, may not attend or be present during the employee's medical treatment unless the representative complies with all the following provisions:

(1) Both the employee and the treating medical personnel provide express written consent.

(2) The written consent described in subdivision (1) is required before the representative may attend or be present during the employee's medical treatment.

(3) The representative may not jeopardize or threaten to jeopardize the payment of the employee's compensation under this article because the employee fails or refuses to complete the written consent described in subdivision (1).

(4) The representative may not cause the employee to believe that the employee's compensation under this article may be terminated or reduced because the employee fails or refuses to complete the written consent described in subdivision (1).

(5) The representative shall obtain the written consents required by subdivision (1) on forms prescribed by the worker's compensation board.

(f) After an employee's injury has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27 of this chapter, the employer may continue to furnish a physician or surgeon and other medical services and supplies, and the worker's compensation board may within the statutory period for review as provided in section 27 of this chapter, on a proper application of either party, require that treatment by that physician and other medical services and supplies be furnished by and on behalf of the employer as the worker's compensation board may deem necessary to limit or reduce the amount and extent of the employee's impairment. The refusal of the employee to accept such services and supplies, when provided by or on behalf of the employer, shall bar the employee from

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all compensation otherwise payable during the period of the refusal, and **his the employee's** right to prosecute any proceeding under IC 22-3-2 through IC 22-3-6 shall be suspended and abated until the employee's refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of the impairment, disfigurement, or death which is the result of the failure of the employee to accept the treatment, services, and supplies required under this section. However, an employer may at any time permit an employee to have treatment for **his the employee's** injuries by spiritual means or prayer ~~in lieu~~ **instead** of the physician or surgeon and other medical services and supplies required under this section.

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

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

(~~f~~) (i) If an accident arising out of and in the course of employment after June 30, 1997, results in the loss of or damage to an artificial member, a brace, an implant, eyeglasses, prosthodontics, or other medically prescribed device, the employer shall repair the artificial member, brace, implant, eyeglasses, prosthodontics, or other medically

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prescribed device or furnish an identical or a reasonably equivalent replacement.

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

- (1) medical care furnished by health care providers selected by agreement before or after injury; or
- (2) the findings of a health care provider who was chosen by agreement.

SECTION 15. IC 22-3-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) After an injury and during the period of claimed resulting disability or impairment, the employee, if so requested by the employee's employer or ordered by the industrial board, shall submit to an examination at reasonable times and places by a duly qualified physician or surgeon designated and paid by the employer or by order of the worker's compensation board. The employee shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid for by the employee. No fact communicated to, or otherwise learned by, any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged, either in the hearings provided for in IC 22-3-2 through IC 22-3-6, or in any action at law brought to recover damages against any employer who is subject to the compensation provisions of IC 22-3-2 through IC 22-3-6. If the employee refuses to submit to or in any way obstructs such examinations, the employee's right to compensation and ~~his~~ **the employee's** right to take or prosecute any proceedings under IC 22-3-2 through IC 22-3-6 shall be suspended until such refusal or obstruction ceases. No compensation shall at any time be payable for the period of suspension unless in the opinion of the worker's compensation board the circumstances justified the refusal or obstruction. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the board.

(b) Any employer requesting an examination of any employee residing within Indiana shall pay, in advance of the time fixed for the examination, sufficient money to defray the necessary expenses of travel by the most convenient means to and from the place of examination, and the cost of meals and lodging necessary during the travel. If the method of travel is by automobile, the mileage rate to be paid by the employer shall be the rate currently being paid by the state to its employees under the state travel policies and procedures



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established by the department of administration and approved by the budget agency. If such examination or travel to or from the place of examination causes any loss of working time on the part of the employee, the employer shall reimburse the employee for such loss of wages upon the basis of the employee's average daily wage. When any employee injured in Indiana moves outside Indiana, the travel expense and the cost of meals and lodging necessary during the travel payable under this section shall be paid from the point in Indiana nearest to the employee's then residence to the place of examination. No travel and other expense shall be paid for any travel and other expense required outside Indiana.

(c) A duly qualified physician or surgeon provided and paid for by the employee may be present at an examination if the employee so desires. In all cases where the examination is made by a physician or surgeon engaged by the employer and the injured employee has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the injured employee, or the employee's representative, a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by such physician or surgeon to the employer. Such statement shall be furnished to the employee or the employee's representative, as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (e). If such physician or surgeon fails or refuses to furnish the employee or the employee's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and such physician or surgeon shall not be permitted to testify before the worker's compensation board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations requested by the employer.

(d) In all cases where an examination of an employee is made by a physician or surgeon engaged by the employee, and the employer has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the employer or the employer's representative a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by such physician or surgeon to the employee. Such statement shall be furnished to the employer or the employer's representative as soon as practicable, but not later than

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thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (e). If such physician or surgeon fails or refuses to furnish the employer, or the employer's representative, with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and such physician or surgeon shall not be permitted to testify before the industrial board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations made by a physician or surgeon engaged by the employee.

(e) A representative of the employer or the employer's insurance carrier, including a case manager or a rehabilitation nurse, may not attend or be present during the employee's medical treatment unless the representative complies with all the following provisions:

- (1) Both the employee and the treating medical personnel provide express written consent.**
- (2) The written consent described in subdivision (1) is required before the representative may attend or be present during the employee's medical treatment.**
- (3) The representative may not jeopardize or threaten to jeopardize the payment of the employee's compensation under this article because the employee fails or refuses to complete the written consent described in subdivision (1).**
- (4) The representative may not cause the employee to believe that the employee's compensation under this article may be terminated or reduced because the employee fails or refuses to complete the written consent described in subdivision (1).**
- (5) The representative shall obtain the written consents required by subdivision (1) on forms prescribed by the worker's compensation board.**

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

- (1) The history of the injury, or claimed injury, as given by the patient.**
- (2) The diagnosis of the physician or surgeon concerning the patient's physical or mental condition.**
- (3) The opinion of the physician or surgeon concerning the causal relationship, if any, between the injury and the patient's physical or mental condition, including the physician's or surgeon's reasons**



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for the opinion.

(4) The opinion of the physician or surgeon concerning whether the injury or claimed injury resulted in a disability or impairment and, if so, the opinion of the physician or surgeon concerning the extent of the disability or impairment and the reasons for the opinion.

(5) The original signature of the physician or surgeon.

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

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

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

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

SECTION 16. IC 22-3-3-7 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Compensation shall be allowed on account of injuries producing only temporary total disability to work or temporary partial disability to work beginning with the eighth (8th) day of such disability except for medical benefits provided in section 4 of the chapter. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(b) The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed injury. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

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

If a determination of liability is not made within thirty (30) days after the date of injury, and the employer is subsequently determined to be liable to pay compensation, the first installment of compensation must include the accrued weekly compensation and interest at the legal rate of interest specified in IC 24-4.6-1-101 computed from the date fourteen (14) days after the disability begins. An employer who fails to comply with this section is subject to

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a civil penalty of fifty dollars (\$50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

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

- (1) the employee has returned to any employment;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination under section 6 of this chapter or has refused to accept suitable employment under section 11 of this chapter;
- (4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowed under section 22 of this chapter; ~~or~~
- (5) the employee is unable or unavailable to work for reasons unrelated to the compensable injury; ~~or~~
- (6) the employee returns to work with limitations or restrictions, and the employer converts temporary total disability or temporary partial disability compensation into disabled from trade compensation under section 33 of this chapter.**

In all other cases the employer must notify the employee in writing **not later than thirty (30) days before the effective date of the termination** of the employer's intent to terminate the payment of temporary total disability benefits and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means, and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails

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or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under IC 22-3-4-5.

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

(e) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under section 10 of this chapter and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

SECTION 17. IC 22-3-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) With respect to injuries occurring prior to April 1, 1951, causing temporary total disability for work there shall be paid to the injured employee during such total disability for work a weekly compensation equal to fifty-five percent (55%) of ~~his~~ **the injured employee's** average weekly wages for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after April 1, 1951, and prior to July 1, 1971, causing temporary total disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty per cent (60%) of ~~his~~ **the injured employee's** average weekly wages for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, causing temporary total disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty per cent (60%) of ~~his~~ **the injured employee's** average weekly wages, as defined in ~~IC 22-3-3-22~~ **section 22 of this chapter** a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1974, and before July 1, 1976, causing temporary total disability or total permanent disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of ~~his~~ **the injured employee's** average weekly wages up to one hundred ~~and~~ thirty-five dollars (~~\$135.00~~)



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(§135) average weekly wages, as defined in section 22 of this chapter, for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1976, causing temporary total disability or total permanent disability for work, there shall be paid to the injured employee during the total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of ~~his~~ **the injured employee's** average weekly wages, as defined in ~~IC 22-3-3-22~~, **section 22 of this chapter**, for a period not to exceed five hundred (500) weeks. **If an employee who has sustained a compensable injury returns to work and suffers a later period of disability due to that injury after June 30, 2003, the average weekly wage for that period of disability shall be determined based on the employee's average weekly wage at the time of the disability subject to the maximum average weekly wage in effect as of the last day worked, computed as set forth in section 22 of this chapter.** Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(b) Each payment of compensation allowed under subsection (a) is reduced or increased as provided in IC 22-3-2-8.

SECTION 18. IC 22-3-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. **(a)** With respect to injuries occurring prior to April 1, 1951, causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability, as prescribed in section 7 of this chapter, a weekly compensation equal to fifty-five per cent (55%) of the difference between ~~his~~ **the employee's** average weekly wages and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred (300) weeks. With respect to injuries occurring on and after April 1, 1951, and prior to July 1, 1974, causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability, as prescribed in section 7 of this chapter, a weekly compensation equal to sixty per cent (60%) of the difference between ~~his~~ **the employee's** average weekly wages and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred (300) weeks. With respect to injuries occurring on and after July 1, 1974, causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability as prescribed in section 7 of this chapter, a weekly compensation equal to sixty-six and two-thirds per cent (66 2/3%) of the difference between ~~his~~ **the employee's** average weekly wages and the weekly wages at which ~~he~~ **the employee** is actually employed after the injury, for a period not to exceed three



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hundred (300) weeks. In case the partial disability begins after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(b) Each payment of compensation allowed under subsection (a) is reduced or increased as provided in IC 22-3-2-8.

SECTION 19. IC 22-3-3-10, AS AMENDED BY P.L.31-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) With respect to injuries in the following schedule occurring prior to April 1, 1951, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of fifty-five percent (55%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1951, and prior to July 1, 1971, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after July 1, 1971, and before July 1, 1977, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred dollars (\$100) average weekly wages, for the periods stated for the injuries. With respect to injuries in the following schedule occurring on and after July 1, 1977, and before July 1, 1979, the employee shall receive, in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injury, a weekly compensation of sixty percent (60%) of ~~his~~ **the employee's** average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not to exceed fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one

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hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the injury.

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

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

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

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(2) phalanges of the finger, shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) For the loss by separation of both hands or both feet or the total sight of both eyes, or any two (2) such losses in the same accident, five hundred (500) weeks.

(3) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred seventy-five (175) weeks.

(4) For the permanent and complete loss of hearing in one (1) ear, seventy-five (75) weeks, and in both ears, two hundred (200) weeks.

(5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of both testicles, one hundred fifty (150) weeks.

(b) With respect to injuries in the following schedule occurring prior to April 1, 1951, the employee shall receive in lieu of all other compensation on account of the injuries, a weekly compensation of fifty-five percent (55%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1951, and prior to April 1, 1955, the employee shall receive in lieu of all other compensation on account of the injuries a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1955, and prior to July 1, 1971, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after July 1, 1971, and before July 1, 1977, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred dollars (\$100) average weekly wages, for the period stated for such injuries respectively. With respect to injuries in the following schedule occurring on and after July 1, 1977, and before July 1, 1979, the employee shall receive, in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1979, and before July 1, 1988,



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

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

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

- (1) Loss of use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid for the same period as for the loss thereof by separation.
- (2) Partial loss of use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.
- (3) For injuries resulting in total permanent disability, five hundred (500) weeks.
- (4) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (a)(3), compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in

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

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

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

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

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

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; by separation of the foot below the knee

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joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, and for the loss by separation of any of the body parts described in subdivision (3), (5), or (8), on or after July 1, 1999, the dollar values per degree applying on the date of the injury as described in subsection (d) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation, thirty-five (35) degrees of permanent impairment.

(6) For the reduction of vision to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(7) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(8) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(9) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be

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

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

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

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

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

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

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

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

(1) With respect to injuries occurring on and after July 1, 1991,

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and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.

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

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

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

(5) With respect to injuries occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to

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fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

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

(7) With respect to injuries occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars (\$2,500) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, **and before July 1, 2003**, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

(9) With respect to injuries occurring on and after July 1, 2003, and before July 1, 2004, for each degree of permanent impairment from one (1) to ten (10), two thousand fifty-six dollars (\$2,056) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand seven hundred six dollars (\$2,706) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand three hundred six dollars (\$3,306) per degree; for each degree of permanent impairment above fifty (50), three thousand nine hundred six dollars (\$3,906) per degree.

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(10) With respect to injuries occurring on and after July 1, 2004, for each degree of permanent impairment from one (1) to ten (10), two thousand four hundred six dollars (\$2,406) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), three thousand eighty-one dollars (\$3,081) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand seven hundred eighty-one dollars (\$3,781) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred thirty-one dollars (\$4,531) per degree.

(e) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (c) and (d) shall not exceed the following:

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

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

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

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

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

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

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

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

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).

(10) With respect to injuries occurring on or after July 1, 2002, **and before July 1, 2003**, eight hundred eighty-two dollars (\$882).

(11) With respect to injuries occurring on or after July 1, 2003, and before July 1, 2004, nine hundred forty-eight dollars (\$948).

(12) With respect to injuries occurring on or after July 1, 2004, one thousand fourteen dollars (\$1,014).

(f) With respect to injuries occurring on or after July 1, 2003, each payment of compensation allowed under this section is reduced or increased as provided in IC 22-3-2-8.

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SECTION 20. IC 22-3-3-13, AS AMENDED BY P.L.202-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk; stating that an assessment is necessary. After June 30, 1999, the board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk, shall, within thirty (30) days of the board sending notice under this subsection, pay to the worker's compensation board for the benefit of the fund an assessed amount that may not exceed ~~two~~ **three** and one-half percent (~~2.5%~~) (**3.5%**) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. For the purposes of calculating the assessment under this subsection, the board may consider payments for temporary total disability, temporary partial disability, permanent total impairment, permanent partial impairment, or death of an employee. The board may not consider payments for medical benefits in

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calculating an assessment under this subsection. If the amount to the credit of the second injury fund on or before October 1 of any year exceeds one million dollars (\$1,000,000), the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before October 1 of any year the amount to the credit of the fund is less than one million dollars (\$1,000,000), the payments of not more than two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment.

(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than September 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund based on the previous year's claims and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(e) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of agent commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(f) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of

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awards of compensation ~~and expense of medical examinations or treatment made~~ and as ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

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

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

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (h).

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

- (1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and
- (2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

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

(j) All insurance carriers subject to an assessment under this section are required to provide to the board:

- (1) not later than January 31 each calendar year; and
- (2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative

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authorized to receive the notice of an assessment.

(k) Each:

(1) insurance carrier or other entity insuring or providing coverage to an employer that is or may be liable to pay compensation for personal injuries to or for death of the employer's employees under this article; and

(2) employer carrying the employer's own risk;

that does not comply with this section is subject to a fine of two hundred fifty dollars (\$250) that shall be paid into the second injury fund created under subsection (b).

(l) In addition to assessing the fine provided under subsection (k), the board shall refer an insurance carrier that does not comply with this section to the department of insurance for administrative action for committing an unfair or a deceptive act and practice under IC 27-4-1.

SECTION 21. IC 22-3-3-22, AS AMENDED BY P.L.31-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) In computing the compensation under this law with respect to injuries occurring on and after April 1, 1963, and prior to April 1, 1965, the average weekly wages shall be considered to be not more than seventy dollars (\$70) nor less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1965, and prior to April 1, 1967, the average weekly wages shall be considered to be not more than seventy-five dollars (\$75) and not less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1967, and prior to April 1, 1969, the average weekly wages shall be considered to be not more than eighty-five dollars (\$85) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1969, and prior to July 1, 1971, the average weekly wages shall be considered to be not more than ninety-five dollars (\$95) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, the average weekly wages shall be considered to be: (A) Not more than: (1) one hundred dollars (\$100) if no dependents; (2) one hundred five dollars (\$105) if one (1) dependent; (3) one hundred ten dollars (\$110) if two (2) dependents; (4) one hundred fifteen dollars (\$115) if three (3) dependents; (5) one hundred twenty dollars (\$120) if four (4) dependents; and (6) one hundred twenty-five dollars (\$125) if five (5) or more dependents; and (B) Not less than thirty-five dollars (\$35). In

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computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to injuries occurring on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be (A) not more than one hundred thirty-five dollars (\$135), and (B) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall in no case exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability and total permanent disability under this law with respect to injuries occurring on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be (1) not more than one hundred fifty-six dollars (\$156) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be (1) not more than one hundred eighty dollars (\$180); and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable may not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be (1) not more than one hundred ninety-five dollars (\$195), and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be (1) not more than two hundred ten dollars (\$210), and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be (1) not more than two hundred thirty-four dollars (\$234) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not

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exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be (1) not more than two hundred forty-nine dollars (\$249) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be (1) not more than two hundred sixty-seven dollars (\$267) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be (1) not more than two hundred eighty-five dollars (\$285) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be (1) not more than three hundred eighty-four dollars (\$384) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

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

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be (1) not more than four hundred forty-one dollars (\$441) and (2) not less than seventy-five

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

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

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

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

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be (1) not more than six hundred forty-two dollars (\$642) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

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

- (1) with respect to injuries occurring on and after July 1, 1997, and before July 1, 1998:
 - (A) not more than six hundred seventy-two dollars (\$672); and
 - (B) not less than seventy-five dollars (\$75);
- (2) with respect to injuries occurring on and after July 1, 1998,



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and before July 1, 1999:

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

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

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

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

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

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

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

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

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

(A) not more than eight hundred twenty-two dollars (\$822); and

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

(6) with respect to injuries occurring on and after July 1, 2002, and before July 1, 2003:

(A) not more than eight hundred eighty-two dollars (\$882); and

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

(7) with respect to injuries occurring on and after July 1, 2003, and before July 1, 2004:

(A) not more than nine hundred forty-eight dollars (\$948); and

(B) not less than two hundred six dollars (\$206); and

(8) with respect to injuries occurring on and after July 1, 2004:

(A) not more than one thousand fourteen dollars (\$1,014); and

(B) not less than two hundred six dollars (\$206).

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

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

(d) With respect to any injury occurring on and after April 1, 1955, and prior to April 1, 1957, the maximum compensation exclusive of

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medical benefits, which shall be paid for an injury under any provisions of this law or under any combination of its provisions shall not exceed twelve thousand five hundred dollars (\$12,500) in any case. With respect to any injury occurring on and after April 1, 1957 and prior to April 1, 1963, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed fifteen thousand dollars (\$15,000) in any case. With respect to any injury occurring on and after April 1, 1963, and prior to April 1, 1965, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed sixteen thousand five hundred dollars (\$16,500) in any case. With respect to any injury occurring on and after April 1, 1965, and prior to April 1, 1967, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed twenty thousand dollars (\$20,000) in any case. With respect to any injury occurring on and after April 1, 1967, and prior to July 1, 1971, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision of this law or any combination of provisions shall not exceed twenty-five thousand dollars (\$25,000) in any case. With respect to any injury occurring on and after July 1, 1971, and prior to July 1, 1974, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed thirty thousand dollars (\$30,000) in any case. With respect to any injury occurring on and after July 1, 1974, and before July 1, 1976, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision of this law or any combination of provisions shall not exceed forty-five thousand dollars (\$45,000) in any case. With respect to an injury occurring on and after July 1, 1976, and before July 1, 1977, the maximum compensation, exclusive of medical benefits, which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed fifty-two thousand dollars (\$52,000) in any case. With respect to any injury occurring on and after July 1, 1977, and before July 1, 1979, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provision of this law or any combination of provisions may not exceed sixty thousand dollars (\$60,000) in any case. With respect to any injury occurring on and after July 1, 1979, and before July 1, 1980, the maximum compensation, exclusive of medical benefits, which may be

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paid for an injury under any provisions of this law or any combination of provisions may not exceed sixty-five thousand dollars (\$65,000) in any case. With respect to any injury occurring on and after July 1, 1980, and before July 1, 1983, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed seventy thousand dollars (\$70,000) in any case. With respect to any injury occurring on and after July 1, 1983, and before July 1, 1984, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed seventy-eight thousand dollars (\$78,000) in any case. With respect to any injury occurring on and after July 1, 1984, and before July 1, 1985, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-three thousand dollars (\$83,000) in any case. With respect to any injury occurring on and after July 1, 1985, and before July 1, 1986, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-nine thousand dollars (\$89,000) in any case. With respect to any injury occurring on and after July 1, 1986, and before July 1, 1988, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed ninety-five thousand dollars (\$95,000) in any case. With respect to any injury occurring on and after July 1, 1988, and before July 1, 1989, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred twenty-eight thousand dollars (\$128,000) in any case.

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

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

With respect to any injury occurring on and after July 1, 1991, and before July 1, 1992, the maximum compensation, exclusive of medical

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benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred sixty-four thousand dollars (\$164,000) in any case.

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

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

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

(e) **Subject to IC 22-3-2-8**, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provision of this law or any combination of provisions may not exceed the following amounts in any case:

- (1) With respect to an injury occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars (\$224,000).
- (2) With respect to an injury occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars (\$234,000).
- (3) With respect to an injury occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars (\$244,000).
- (4) With respect to an injury occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars (\$254,000).
- (5) With respect to an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars (\$274,000).
- (6) With respect to an injury occurring on and after July 1, 2002, **and before July 1, 2003**, two hundred ninety-four thousand dollars (\$294,000).
- (7) **With respect to an injury occurring on or after July 1, 2003, the total of one hundred twenty-five (125) weeks of**

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temporary total disability compensation as set forth in section 8 of this chapter, plus one hundred (100) degrees of permanent partial impairment as set forth in section 10 of this chapter.

SECTION 22. IC 22-3-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The power and jurisdiction of the worker's compensation board over each case shall be continuing and from time to time it may, upon its own motion or upon the application of either party, on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in IC 22-3-2 through IC 22-3-6.

(b) Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder.

(c) The board shall not **have jurisdiction to** make any ~~such~~ modification upon its own motion ~~nor shall or upon~~ any application ~~therefor be~~ filed by either party after the expiration of two (2) years from the ~~last day for which compensation was paid under the original~~ **date of the most recent** award made either by agreement or upon hearing, ~~except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day for which compensation was paid.~~ The board may at any time correct any clerical error in any finding or award.

SECTION 23. IC 22-3-3-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 33. (a) **If an employee:**

- (1) **receives an injury that results in a temporary total disability or a temporary partial disability;**
- (2) **is capable of performing work with permanent limitations or restrictions that prevent the employee from returning to the position the employee held before the employee's injury; and**
- (3) **is enrolled in a training program approved by:**
 - (A) **the incumbent workers training board established by IC 22-4-18.3-2; or**
 - (B) **the unemployment insurance board created by IC 22-4-18-2;**

the employee may receive disabled from trade compensation.

- (b) **An employee may receive disabled from trade compensation**



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for a period not to exceed:

- (1) fifty-two (52) consecutive weeks; or
- (2) seventy-eight (78) total weeks.

(c) An employee is entitled to receive disabled from trade compensation in a weekly amount equal to the difference between the employee's average weekly wage from employment at the time of the injury and the employee's average weekly wage from employment after the injury with the permanent restrictions or limitations resulting from the injury.

(d) The amount of disabled from trade compensation may not exceed the maximum average weekly wage amounts set forth in section 22 of this chapter.

(e) Not later than sixty (60) days after the employee's release to return to work with restrictions or limitations, the employee must receive notice from the employer on a form provided by the board that informs the employee that the employee has been released to work with limitations or restrictions. The notice must include:

- (1) an explanation of the limitations or restrictions placed on the employee;
- (2) the amount of disabled from trade compensation the employee has been awarded; and
- (3) information for the employee regarding the terms of this section.

(f) Disabled from trade compensation is in addition to any other compensation awarded to an employee as a result of a temporary total disability or a permanent partial impairment.

(g) An employer may unilaterally convert an award of compensation for a temporary total disability or a temporary partial disability into disabled from trade compensation by filing a copy of the notice required under subsection (e) with the board.

SECTION 24. IC 22-3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The worker's compensation board may make rules not inconsistent with IC 22-3-2 through IC 22-3-6 for carrying out the provisions of IC 22-3-2 through IC 22-3-6. Processes and procedures under IC 22-3-2 through IC 22-3-6 shall be as summary and simple as reasonably may be. The board or any member of the board shall have the power for the purpose of IC 22-3-2 through IC 22-3-6 to subpoena witnesses, administer or cause to have administered oaths, and to examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute.

(b) The county sheriff shall serve all subpoenas of the board **and**



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magistrates appointed under IC 22-3-1-1 and shall receive the same fees as provided by law for like service in civil actions. Each witness who appears in obedience to such subpoenas of the board shall receive for attendance the fees and mileage for witnesses in civil cases in the courts.

(c) The circuit or superior court shall, on application of the board or any member of the board, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

SECTION 25. IC 22-3-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If the employer and the injured employee or the injured employee's dependents disagree in regard to the compensation payable under IC 22-3-2 through IC 22-3-6 or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or to the amount to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute.

(b) Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the employee, employer, and attorneys of record in the manner prescribed by the board of the time and place of all hearings and requests for continuances. The hearing of all claims for compensation, on account of injuries occurring within the state, shall be held in the county in which the injury occurred, **or** in any adjoining county, except when the parties consent to a hearing elsewhere. Claims assigned to an individual board member that are considered to be of an emergency nature by that board member, may be heard in any county within the board member's jurisdiction.

(c) All disputes arising under IC 22-3-2 through IC 22-3-6, if not settled by the agreement of the parties interested therein, with the approval of the board, shall be determined by the board.

SECTION 26. IC 22-3-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The board by any or all of its members **or magistrates appointed under IC 22-3-1-1** shall hear the parties at issue, their representatives and witnesses, and shall determine the dispute in a summary manner. The award shall be filed with the record of proceedings, and a copy thereof shall immediately be sent to each of the employee, employer, and attorney of record in the

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dispute.

SECTION 27. IC 22-3-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. In all proceedings before the worker's compensation board or in a court under IC 22-3-2 through IC 22-3-6, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court. **Prejudgment interest shall be awarded at a rate of ten percent (10%) per year, accruing from the date of filing of the application of adjustment of claim as determined under section 5(a) of this chapter.**

SECTION 28. IC 22-3-6-1, AS AMENDED BY P.L.202-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: 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. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of IC 22-3-2-6 and IC 22-3-3-31. 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.) to the extent set forth in IC 22-3-2-2.5.

(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.

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(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 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

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(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 to the extent set forth in IC 22-3-2-2.5.

(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 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

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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 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

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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 the employee's** 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.

(5) In computing the average weekly wage for an employee who:

- (A) has sustained a compensable occupational disease;**
- (B) has returned to work; and**
- (C) sustains a later period of disability due to that occupational disease after June 30, 2003;**

the average weekly wage for the later period of disability shall be determined based on the average weekly wage at the time of that disability, subject to the maximum average weekly wage in effect as of the last day worked, computed as set forth in IC 22-3-3-22.

(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:

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- (1) The geographic service area served by zip codes with the first three (3) digits 463 and 464.
- (2) The geographic service area served by zip codes with the first three (3) digits 465 and 466.
- (3) The geographic service area served by zip codes with the first three (3) digits 467 and 468.
- (4) The geographic service area served by zip codes with the first three (3) digits 469 and 479.
- (5) The geographic service area served by zip codes with the first three (3) digits 460, 461 (except 46107), and 473.
- (6) The geographic service area served by the 46107 zip code and zip codes with the first three (3) digits 462.
- (7) The geographic service area served by zip codes with the first three (3) digits 470, 471, 472, 474, and 478.
- (8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(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 29. IC 22-3-7-2.5, AS ADDED BY P.L.235-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) As used in this section, "school to work student" refers to a student participating in on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).

(b) A school to work student is entitled to the following compensation and benefits under this chapter:

- (1) Medical benefits.
- (2) Permanent partial impairment compensation under section 16 of this chapter. Permanent partial impairment compensation for a school to work student shall be paid in a lump sum upon agreement or final award.
- (3) In the case that death results from the injury:
 - (A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars (\$175,000), **subject to section 21 of this chapter**, payable upon agreement or final award to any dependents of the student under sections 11 through 14 of



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this chapter, or, if the student has no dependents, to the student's parents; and

(B) burial compensation under section 15 of this chapter.

(c) For the sole purpose of modifying an award under section 27 of this chapter, a school to work student's average weekly wage is presumed to be equal to the federal minimum wage.

(d) A school to work student is not entitled to the following compensation under this chapter:

(1) Temporary total disability compensation under section 16 of this chapter.

(2) Temporary partial disability compensation under section 19 of this chapter.

(e) Except for remedies available under IC 5-2-6.1, recovery under subsection (b) is the exclusive right and remedy for:

(1) a school to work student; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student;

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

SECTION 30. IC 22-3-7-16, AS AMENDED BY P.L.1-2001, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or

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the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

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

If a determination of liability is not made within thirty (30) days after the date the disablement begins, and the employer is subsequently determined to be liable to pay compensation, the first installment of compensation must include the accrued weekly compensation and interest at the legal rate of interest specified in IC 24-4.6-1-101 computed from the date fourteen (14) days after the disablement begins.

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

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

- (1) the employee has returned to work;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination under section 20 of this chapter;
- (4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; **or**
- (5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease; **or**
- (6) the employee returns to work with limitations or restrictions, and the employer converts temporary total disability or temporary partial disability compensation into disabled from trade compensation under section 16.5 of this chapter.**

In all other cases the employer must notify the employee in writing **not later than thirty (30) days before the effective date of the**



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

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

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

(e) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to

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sixty percent (60%) of the employee's average weekly wages for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

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

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

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

(f) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability,



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the later period shall be included as part of the maximum period allowed for partial disability.

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

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

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

For disabilities occurring on and after July 1, 1971, and before July 1, 1977, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of ~~his~~ **the employee's** average

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weekly wages not to exceed one hundred dollars (\$100) average weekly wages, for the period stated for such disabilities respectively.

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

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

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

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

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

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of

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the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half (1/2) the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

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

(3) Partial Loss of Use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(4) For disablements for occupational disease resulting in total permanent disability, five hundred (500) weeks.

(5) For the loss of both hands, or both feet, or the total sight of both eyes, or any two (2) of such losses resulting from the same disablement by occupational disease, five hundred (500) weeks.

(6) For the permanent and complete loss of vision by enucleation of an eye or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred fifty (150) weeks, and for any other permanent reduction of the sight of an eye, compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses plus an additional amount equal to the

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proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

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

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

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

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

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; of separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

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(2) Amputations occurring on or after July 1, 1997: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, the dollar values per degree applying on the date of the injury as described in subsection (h) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(6) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(7) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(8) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(9) Partial loss of use: For the permanent partial loss of the use of

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an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

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

(11) For any permanent reduction of the sight of an eye less than a total loss as specified in subdivision (5), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (6), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

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

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

(h) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection (d) and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50),

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one thousand five hundred dollars (\$1,500) per degree.

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

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

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

(5) With respect to disablements occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent

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impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars (\$2,500) per degree.

(8) With respect to disablements occurring on and after July 1, 2001, **and before July 1, 2003**, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

(9) With respect to disablements occurring on and after July 1, 2003, and before July 1, 2004, for each degree of permanent impairment from one (1) to ten (10), two thousand fifty-six dollars (\$2,056) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand seven hundred six dollars (\$2,706) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand three hundred six dollars (\$3,306) per degree; for each degree of permanent impairment above fifty (50), three thousand nine hundred six dollars (\$3,906) per degree.

(10) With respect to disablements occurring on and after July 1, 2004, for each degree of permanent impairment from one (1) to ten (10), two thousand four hundred six dollars (\$2,406) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), three thousand eighty-one

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dollars (\$3,081) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand seven hundred eighty-one dollars (\$3,781) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred thirty-one dollars (\$4,531) per degree.

(i) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (g) and (h) shall not exceed the following:

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

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

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

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

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

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

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

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

(9) With respect to ~~injuries~~ **disablements** occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).

(10) With respect to ~~injuries~~ **disablements** occurring on or after July 1, 2002, **and before July 1, 2003**, eight hundred eighty-two dollars (\$882).

(11) With respect to disablements occurring on or after July 1, 2003, and before July 1, 2004, nine hundred forty-eight dollars (\$948).

(12) With respect to disablements occurring on or after July 1, 2004, one thousand fourteen dollars (\$1,014).

(j) If any employee, only partially disabled, refuses employment

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suitable to ~~his~~ **the employee's** capacity, ~~procured for him,~~ ~~he~~ **the employee** shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(k) If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which ~~he~~ **the employee** suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(l) If an employee suffers a disablement from occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, ~~he~~ **the employee** shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (g)(1), (g)(4), (g)(5), (g)(8), or (g)(9); but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

(m) If an employee receives a permanent disability from occupational disease such as specified in subsection (g)(1), (g)(4), (g)(5), (g)(8), or (g)(9) after having sustained another such permanent

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disability in the same employment the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation and, when such previous and subsequent permanent disabilities, in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or impairment, but payments made for the previous disability or impairment shall be deducted from the total payment of compensation due.

(n) When an employee has been awarded or is entitled to an award of compensation for a definite period under this chapter for disability from occupational disease, which disablement occurs on and after April 1, 1951, and prior to April 1, 1963, and such employee dies from any other cause than such occupational disease, payment of the unpaid balance of such compensation, not exceeding three hundred (300) weeks, shall be made to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter, and compensation, not exceeding five hundred (500) weeks, shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter. When an employee has been awarded or is entitled to an award of compensation for a definite period from an occupational disease wherein disablement occurs on and after April 1, 1963, and such employee dies from other causes than such occupational disease, payment of the unpaid balance of such compensation not exceeding three hundred fifty (350) weeks shall be paid to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter and compensation, not exceeding five hundred (500) weeks shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.

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

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

(q) When the aggregate payments of compensation awarded by agreement or upon hearing to an employee or dependent under eighteen

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(18) years of age do not exceed one hundred dollars (\$100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

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

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

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

(t) Each payment of compensation due under this section shall be reduced or increased as provided in section 21 of this chapter.

SECTION 31. IC 22-3-7-16.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 16.1. (a) As used in this section, "board" refers to the worker's compensation board created by IC 22-3-1-1.**

(b) If an employee suffers a second disablement from occupational disease resulting in the permanent and total impairment of the employee, the employer is liable only for the compensation payable for the second injury. However, in addition to the compensation payable for the second injury and after the employer completes the payment of the compensation, the employee shall be paid the remainder of the compensation that would be due for the total permanent impairment out of the occupational disease second injury fund.

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:

(1) all insurance carriers and other entities insuring or

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providing coverage to employers that are or may be liable under this article to pay compensation for personal injuries to or the death of one (1) of their employees from an occupational disease; and

(2) each employer carrying the employer's own risk for personal injuries to or the death of one (1) of its employees from an occupational disease;

stating that an assessment is necessary. The board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier insuring employers that are or may be liable under this article to pay compensation for disablement or death from occupational diseases of their employees under this article and every employer carrying the employer's own risk shall, not later than thirty (30) days after receiving notice from the board, pay to the worker's compensation board for the benefit of the occupational disease second injury fund. The payment shall be in a sum equal to three and one-half percent (3.5%) of the total amount of all payments under this chapter for occupational diseases paid to employees with occupational diseases or their beneficiaries under this chapter for the calendar year next preceding the due date of the payment.

(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than September 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund based on the previous year's claims and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(e) An assessment collected under subsection (c) on an employer that is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the



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computation of agent commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(f) The occupational diseases second injury fund is created. The sums under this section shall be paid by the worker's compensation board to the treasurer of state, to be deposited in the occupational diseases second injury fund. The fund is not part of the state general fund. Any balance remaining in the account at the end of any fiscal year does not revert to the state general fund. The fund shall be used only for the payment of awards of compensation ordered by the board and chargeable against the occupational diseases second injury fund under this section and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(g) If an employee who is entitled to compensation under this chapter either:

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

the employee may apply to the worker's compensation board, which may award the employee compensation from the occupational diseases second injury fund established by this section, as provided under subsection (b).

(h) An employee who has exhausted the employee's maximum compensation under section 16 of this chapter may be awarded reasonable amounts of compensation taking into consideration the employee's average weekly wage at the time of the employee's disablement, the number of recipients entitled to compensation from the occupational diseases second injury fund, and the amount of money within the occupational diseases second injury fund at the time of the application, not to exceed the maximum then applicable under section 19 of this chapter, for a period not to exceed one hundred fifty (150) weeks, upon competent evidence sufficient to establish:

- (1) that the employee is totally and permanently disabled from an occupational disease of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and



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

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

(j) Each:

(1) insurance carrier or other entity insuring or providing coverage to an employer that is or may be liable under this article to pay compensation for personal injuries to or the death of one (1) of the employer's employees from an occupational disease; and

(2) employer carrying the employer's own risk for personal injuries to or the death of one (1) of the employer's employees from an occupational disease;

that does not comply with this section is subject to a fine of two hundred fifty dollars (\$250) that shall be paid into the occupational diseases second injury fund created under subsection (f).

(k) In addition to assessing the fine provided under subsection (j), the board shall refer an insurance carrier that does not comply with this section to the department of insurance for administrative action for committing an unfair or deceptive act and practice under IC 27-4-1.

SECTION 32. IC 22-3-7-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16.5. (a) If an employee:

(1) suffers an occupational disease that results in a temporary total disability or a temporary partial disability;

(2) is capable of performing work with permanent limitations or restrictions that prevent the employee from returning to the position the employee held before the employee's occupational disease; and

(3) is enrolled in a training program approved by:

(A) the incumbent workers training board established by IC 22-4-18.3-2; or

(B) the Indiana unemployment insurance board created by IC 22-4-18-2;

the employee may receive disabled from trade compensation.

(b) An employee may receive disabled from trade compensation for a period not to exceed:

(1) fifty-two (52) consecutive weeks; or

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(2) seventy-eight (78) total weeks.

(c) An employee is entitled to receive disabled from trade compensation in a weekly amount equal to the difference between the employee's average weekly wage from employment at the time of the injury and the employee's average weekly wage from employment after the injury with the permanent restrictions or limitations resulting from the injury.

(d) The amount of disabled from trade compensation may not exceed the maximum average weekly wage amounts set forth in section 19 of this chapter.

(e) Not later than sixty (60) days after the employee's release to return to work with restrictions or limitations, the employee must receive notice from the employer on a form provided by the board that informs the employee that the employee has been released to work with limitations or restrictions. The notice must include:

- (1) an explanation of the limitations or restrictions placed on the employee;
- (2) the amount of disabled from trade compensation the employee has been awarded; and
- (3) information for the employee regarding the terms of this section.

(f) Disabled from trade compensation is in addition to any other compensation awarded to an employee as a result of a temporary total disability or a permanent partial impairment.

(g) An employer may unilaterally convert an award of compensation for a temporary total disability or a temporary partial disability into disabled from trade compensation by filing a copy of the notice required under subsection (e) with the board.

SECTION 33. IC 22-3-7-17, AS AMENDED BY P.L.31-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) During the period of disablement, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of ~~his~~ **the employee's** occupational disease, and in addition thereto such surgical, hospital, and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state of Indiana to its employees. If the treatment or travel to or from the place of treatment causes a loss of working time to the

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employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.

(b) During the period of disablement resulting from the occupational disease, the employer shall furnish such physician, services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by such physician and such services and supplies be furnished by or on behalf of the employer as the board may deem reasonably necessary. After an employee's occupational disease has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27(i) of this chapter, the employer may continue to furnish a physician or a surgeon and other medical services and supplies, and the board may, within such statutory period for review as provided in section 27(i) of this chapter, on a proper application of either party, require that treatment by such physician or surgeon and such services and supplies be furnished by and on behalf of the employer as the board may deem necessary to limit or reduce the amount and extent of such impairment. The refusal of the employee to accept such services and supplies when so provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of such refusal and **his the employee's** right to prosecute any proceeding under this chapter shall be suspended and abated until such refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of such impairment, disfigurement, or death which is the result of the failure of such employee to accept such treatment, services, and supplies, provided that an employer may at any time permit an employee to have treatment for **his the employee's** disease or injury by spiritual means or prayer in lieu of such physician, services, and supplies.

(c) **After the employee's medical treatment begins, neither the employer nor the employer's insurance carrier has the right to transfer or otherwise redirect an employee's medical treatment to another physician unless:**

- (1) the employee makes the transfer request;**
- (2) the attending physician requests that the physician's treatment of the employee be discontinued; or**
- (3) the worker's compensation board determines that there is**



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good cause for the transfer.

(d) If the employer or the employer's insurance carrier desires to transfer or redirect the employee's medical treatment for good cause, the employer or the employer's insurance carrier shall file a transfer request with the worker's compensation board on forms prescribed by the board. A transfer may not occur until the worker's compensation board issues an order granting the transfer request.

(e) A representative of the employer or the employer's insurance carrier, including a case manager or a rehabilitation nurse, may not attend or be present during the employee's medical treatment unless the representative complies with all of the following provisions:

(1) Both the employee and the treating medical personnel provide express written consent.

(2) The written consent described in subdivision (1) is required before the representative may attend or be present during the employee's medical treatment.

(3) The representative may not jeopardize or threaten to jeopardize the payment of the employee's compensation under this article because the employee fails or refuses to complete the written consent described in subdivision (1).

(4) The representative may not cause the employee to believe that the employee's compensation under this article may be terminated or reduced because the employee fails or refuses to complete the written consent described in subdivision (1).

(5) The representative shall obtain the written consents required by subdivision (1) on forms prescribed by the worker's compensation board.

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



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

(e) (h) This section may not be construed to prohibit an agreement between an employer and employees that has the approval of the board and that:

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

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

SECTION 34. IC 22-3-7-19, AS AMENDED BY P.L.31-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

- (1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:
 - (A) not more than one hundred thirty-five dollars (\$135); and
 - (B) not less than seventy-five dollars (\$75);
- (2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:
 - (A) not more than one hundred fifty-six dollars (\$156); and
 - (B) not less than seventy-five dollars (\$75);
- (3) on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be:
 - (A) not more than one hundred eighty dollars (\$180); and
 - (B) not less than seventy-five dollars (\$75);
- (4) on and after July 1, 1979, and before July 1, 1980, the average



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weekly wages are considered to be:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) not more than three hundred eighty-four dollars (\$384); and

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

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

(1) not more than four hundred eleven dollars (\$411); and

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

(f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1990, and before

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July 1, 1991, the average weekly wages are considered to be:

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

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

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

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

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

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

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

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

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

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

- (1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:
 - (A) not more than six hundred seventy-two dollars (\$672); and
 - (B) not less than seventy-five dollars (\$75);
- (2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:
 - (A) not more than seven hundred two dollars (\$702); and
 - (B) not less than seventy-five dollars (\$75);
- (3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:
 - (A) not more than seven hundred thirty-two dollars (\$732);
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- (B) not less than seventy-five dollars (\$75);
- (4) with respect to occupational diseases occurring on and after July 1, 2000, and before July 1, 2001:
- (A) not more than seven hundred sixty-two dollars (\$762); and
- (B) not less than seventy-five dollars (\$75);
- (5) with respect to ~~disablements~~ **occupational diseases** occurring on and after July 1, 2001, and before July 1, 2002:
- (A) not more than eight hundred twenty-two dollars (\$822); and
- (B) not less than seventy-five dollars (\$75); ~~and~~
- (6) with respect to ~~disablements~~ **occupational diseases** occurring on and after July 1, 2002, **and before July 1, 2003:**
- (A) not more than eight hundred eighty-two dollars (\$882); and
- (B) not less than seventy-five dollars (\$75);
- (7) with respect to occupational diseases occurring on and after July 1, 2003, and before July 1, 2004:**
- (A) not more than nine hundred forty-eight dollars (\$948); and**
- (B) not less than two hundred six dollars (\$206); and**
- (8) with respect to occupational diseases occurring on and after July 1, 2004:**
- (A) not more than one thousand fourteen dollars (\$1,014); and**
- (B) not less than two hundred six dollars (\$206).**
- (l) The maximum compensation that shall be paid for occupational disease and its results under any one (1) or more provisions of this chapter with respect to disability or death occurring:
- (1) on and after July 1, 1974, and before July 1, 1976, shall not exceed forty-five thousand dollars (\$45,000) in any case;
- (2) on and after July 1, 1976, and before July 1, 1977, shall not exceed fifty-two thousand dollars (\$52,000) in any case;
- (3) on and after July 1, 1977, and before July 1, 1979, may not exceed sixty thousand dollars (\$60,000) in any case;
- (4) on and after July 1, 1979, and before July 1, 1980, may not exceed sixty-five thousand dollars (\$65,000) in any case;
- (5) on and after July 1, 1980, and before July 1, 1983, may not exceed seventy thousand dollars (\$70,000) in any case;
- (6) on and after July 1, 1983, and before July 1, 1984, may not exceed seventy-eight thousand dollars (\$78,000) in any case; and
- (7) on and after July 1, 1984, and before July 1, 1985, may not exceed eighty-three thousand dollars (\$83,000) in any case.

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

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

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

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

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

(r) The maximum compensation with respect to disability or death occurring on and after July 1, 1993, and before July 1, 1994, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred ninety-seven thousand dollars (\$197,000) in any case.



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

(t) The maximum compensation that shall be paid for occupational disease and the results of an occupational disease under this chapter or under any combination of the provisions of this chapter, **subject to section 21 of this chapter**, may not exceed the following amounts in any case:

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

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

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

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

(5) With respect to disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars (\$274,000).

(6) With respect to disability or death occurring on and after July 1, 2002, **and before July 1, 2003**, two hundred ninety-four thousand dollars (\$294,000).

(7) With respect to a disability or death occurring on or after July 1, 2003, the total of one hundred twenty-five (125) weeks of temporary total disability compensation plus one hundred (100) degrees of permanent partial impairment, both as set forth in section 16 of this chapter.

(u) For all disabilities occurring before July 1, 1985, "average weekly wages" shall mean the earnings of the injured employee in the employment in which the employee was working at the time of the last exposure during the period of fifty-two (52) weeks immediately preceding the last day of the last exposure divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the 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

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parts thereof remaining after the time lost has been deducted. Where the employment prior to the last day of the last exposure extended over a period of less than fifty-two (52) weeks, the method of dividing 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 employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which, during the fifty-two (52) weeks previous to the last day of the last exposure, 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 that same class of employment in the same district. Whenever allowances of any character are made to an employee in lieu of wages or a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(v) For all disabilities occurring on and after July 1, 1985, "average weekly wages" means the earnings of the injured employee during the period of fifty-two (52) weeks immediately preceding the disability divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the 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 of weeks remaining after the time lost has been deducted. If employment before the date of disability extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. If by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages for the employee, the employee's average weekly wages shall be considered to be the average weekly amount that, during the fifty-two (52) weeks before the date of disability, 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 that same class of employment in the same district. Whenever allowances of any character are made to an employee instead of wages or a specified part of the wage contract, they shall be considered a part of the employee's earnings.

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(w) **In computing the average weekly wage for an employee who:**

- (1) has sustained a compensable occupational disease;**
- (2) has returned to work; and**
- (3) sustains a later period of disability due to that occupational disease after June 30, 2003;**

the average weekly wage for the later period of disability shall be determined based on the average weekly wage at the time of that disability, subject to the maximum average weekly wage in effect as of the last day worked, computed as set forth in this section.

(x) The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid or to be paid for temporary total disability, temporary partial disability, or permanent total disability benefits combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from a disablement occurring on or after January 1, 1998, the minimum total benefit shall not be less than seventy-five thousand dollars (\$75,000).

(y) Each payment of compensation due under this section shall be reduced or increased as provided in section 21 of this chapter.

SECTION 35. IC 22-3-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) After disablement and during the period of claimed resulting disability or impairment, the employee, if so requested by the employee's employer or ordered by the worker's compensation board, shall submit to an examination at reasonable times and places by a duly qualified physician or surgeon designated and paid by the employer or by order of the board. The employee shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid for by the employee. No fact communicated to or otherwise learned by any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged either in the hearings provided for in this chapter, or in any action at law brought to recover damages against any employer who is subject to the compensation provisions of this chapter. If the employee refuses to submit to, or in any way obstructs the examinations, the employee's right to compensation and right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation shall at any time be payable for the period of suspension unless in the opinion of the board, the circumstances justified the refusal or

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obstruction. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

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

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

(d) A duly qualified physician or surgeon provided and paid for by the employee may be present at an examination, if the employee so desires. In all cases, where the examination is made by a physician or surgeon engaged by the employer and the disabled or injured employee has no physician or surgeon present at the examination, it shall be the duty of the physician or surgeon making the examination to deliver to the injured employee, or the employee's representative, a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by the physician or surgeon to the employer. This statement shall be furnished to the employee or the employee's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (f). If the physician or surgeon fails or refuses to furnish the employee or the employee's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and the physician shall not be permitted to testify before the worker's compensation board as to any facts learned in the examination. All of

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the requirements of this subsection apply to all subsequent examinations requested by the employer.

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

(f) A representative of the employer or the employer's insurance carrier, including a case manager or a rehabilitation nurse, may not attend or be present during the employee's medical treatment unless the representative complies with all of the following provisions:

- (1) Both the employee and the treating medical personnel provide express written consent.**
- (2) The written consent described in subdivision (1) is required before the representative may attend or be present during the employee's medical treatment.**
- (3) The representative may not jeopardize or threaten to jeopardize the payment of the employee's compensation under this article because the employee fails or refuses to complete the written consent described in subdivision (1).**
- (4) The representative may not cause the employee to believe that the employee's compensation under this article may be terminated or reduced because the employee fails or refuses to complete the written consent described in subdivision (1).**
- (5) The representative shall obtain the written consents**

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required by subdivision (1) on forms prescribed by the worker's compensation board.

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

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

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

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

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

~~(i)~~ **(j)** The employer upon proper application, or the worker's compensation board, shall have the right in any case of death to require an autopsy at the expense of the party requesting the same. If, after a hearing, the board orders an autopsy and the autopsy is refused by the surviving spouse or next of kin, in this event any claim for compensation on account of the death shall be suspended and abated during the refusal. The surviving spouse or dependent must be served with a notice setting forth the consequences of the refusal under this

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subsection. The notice must be in a form prescribed by the worker's compensation board. No autopsy, except one performed by or on the authority or order of the coroner in discharge of the coroner's duties, shall be held in any case by any person without notice first being given to the surviving spouse or next of kin, if they reside in Indiana or their whereabouts can reasonably be ascertained, of the time and place thereof, and reasonable time and opportunity shall be given such surviving spouse or next of kin to have a representative or representatives present to witness same. However, if such notice is not given, all evidence obtained by the autopsy shall be suspended on motion duly made to the board.

SECTION 36. IC 22-3-7-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) No compensation is allowed for any condition of physical or mental ill-being, disability, disablement, or death for which compensation is recoverable on account of accidental injury under ~~chapters 2 through 6 of this article: IC 22-3-2 through IC 22-3-6.~~

(b) ~~No~~ **Each payment of compensation is allowed under sections 16 and 19 of this chapter shall be reduced by twenty percent (20%) for any occupational disease or death knowingly self-inflicted by the employee or due to:**

- ~~his~~ **(1) intoxication;**
- ~~his~~ **(2) commission of an offense;**
- ~~his~~ **(3) knowing and willful failure to use a safety appliance;**
- ~~his~~ **(4) knowing and willful failure to obey a reasonable written or printed rule of the employer which has been posted in a conspicuous position in the place of work; or**
- ~~his~~ **(5) knowing and willful failure to perform any statutory duty.**

~~The burden of proof is on the defendant.~~

(c) No compensation is allowed for an employee's knowing and willful self-inflicted occupational disease or death.

(d) Each payment of compensation allowed under sections 16 and 19 of this chapter shall be increased by thirty percent (30%) for a disease or death due to the employer's intentional failure to comply with a statute or an administrative regulation regarding safety methods or installation or maintenance of safety appliances.

(e) The defendant has the burden of proof under subsections (b) and (c).

SECTION 37. IC 22-3-7-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. (a) The worker's compensation board may make rules not inconsistent with this chapter for carrying out the provisions of this chapter. Processes and



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procedures under this chapter shall be as summary and simple as reasonably may be. The board, or any member thereof, shall have the power, for the purpose of this chapter, to subpoena witnesses, administer or cause to have administered oaths, and to examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute. The county sheriff shall serve all subpoenas of the board **and magistrates appointed under IC 22-3-1-1** and shall receive the same fees as provided by law for like service in civil actions. Each witness who appears in obedience to such subpoena of the board shall receive for attendance the fees and mileage for witnesses in civil cases in the courts. The circuit or superior court shall, on application of the board or any member thereof, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

(b) The fees of attorneys and physicians and charges of nurses and hospitals for services under this chapter shall be subject to the approval of the worker's compensation board. When any claimant for compensation is represented by an attorney in the prosecution of ~~his~~ **the claimant's** claim, the board shall fix and state in the award, if compensation be awarded, the amount of the claimant's attorney's fees. The fee so fixed shall be binding upon both the claimant and ~~his~~ **the claimant's** attorney, and the employer shall pay to the attorney, out of the award, the fee so fixed, and the receipt of the attorney therefor shall fully acquit the employer for an equal portion of the award.

(c) Whenever the worker's compensation board shall determine upon hearing of a claim that the employer has acted in bad faith in adjusting and settling said award, or whenever the board shall determine upon hearing of a claim that the employer has not pursued the settlement of said claim with diligence, then the board shall, if compensation be awarded, fix the amount of the claimant's attorney's fees and such attorney's fees shall be paid to the attorney and shall not be charged against the award to the claimant. Such fees as are fixed and awarded on account of a lack of diligence or because of bad faith on the part of the employer shall not be less than one hundred fifty dollars (\$150).

(d) The worker's compensation board may withhold the approval of the fees of the attending physician in any case until ~~he shall file the~~ **attending physician files** a report with the board on the form prescribed by such board.

SECTION 38. IC 22-3-7-27, AS AMENDED BY P.L.235-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2003]: Sec. 27. (a) If the employer and the employee or the employee's dependents disagree in regard to the compensation payable under this chapter, or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or as to the amount to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute. When compensation which is payable in accordance with an award or by agreement approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned.

(b) The application making claim for compensation filed with the worker's compensation board shall state the following:

- (1) The approximate date of the last day of the last exposure and the approximate date of the disablement.
- (2) The general nature and character of the illness or disease claimed.
- (3) The name and address of the employer by whom employed on the last day of the last exposure, and if employed by any other employer after such last exposure and before disablement, the name and address of such other employer or employers.
- (4) In case of death, the date and place of death.
- (5) Amendments to applications making claim for compensation which relate to the same disablement or disablement resulting in death originally claimed upon may be allowed by the board in its discretion, and, in the exercise of such discretion, it may, in proper cases, order a trial de novo. Such amendment shall relate back to the date of the filing of the original application so amended.

(c) Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the parties, in the manner prescribed by the board, of the time and place of hearing. The hearing of all claims for compensation on account of occupational disease shall be held in the county in which the last exposure occurred or in any adjoining county, except when the parties consent to a hearing elsewhere. Claims assigned to an individual board member that are considered to be of an emergency nature by that board member, may be heard in any county within the board member's jurisdiction.

(d) The board by any or all of its members **or by magistrates**

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appointed under IC 22-3-1-1 shall hear the parties at issue, their representatives, and witnesses, and shall determine the dispute in a summary manner. The award shall be filed with the record of proceedings, and a copy thereof shall immediately be sent by registered mail to each of the parties in dispute.

(e) If an application for review is made to the board within thirty (30) days from the date of the award made by less than all the members, the full board, if the first hearing was not held before the full board, shall review the evidence, or, if deemed advisable, hear the parties at issue, their representatives, and witnesses as soon as practicable, and shall make an award and file the same with the finding of the facts on which it is based and send a copy thereof to each of the parties in dispute, in like manner as specified in subsection (d).

(f) An award of the board by less than all of the members as provided in this section, if not reviewed as provided in this section, shall be final and conclusive. An award by the full board shall be conclusive and binding unless either party to the dispute, within thirty (30) days after receiving a copy of such award, appeals to the court of appeals under the same terms and conditions as govern appeals in ordinary civil actions. The court of appeals shall have jurisdiction to review all questions of law and of fact. The board, of its own motion, may certify questions of law to the court of appeals for its decision and determination. An assignment of errors that the award of the full board is contrary to law shall be sufficient to present both the sufficiency of the facts found to sustain the award and the sufficiency of the evidence to sustain the finding of facts. All such appeals and certified questions of law shall be submitted upon the date filed in the court of appeals, shall be advanced upon the docket of the court, and shall be determined at the earliest practicable date, without any extensions of time for filing briefs. An award of the full board affirmed on appeal, by the employer, shall be increased thereby five percent (5%), and by order of the court may be increased ten percent (10%).

(g) Upon order of the worker's compensation board made after five (5) days notice is given to the opposite party, any party in interest may file in the circuit or superior court of the county in which the disablement occurred a certified copy of the memorandum of agreement, approved by the board, or of an order or decision of the board, or of an award of the full board unappealed from, or of an award of the full board affirmed upon an appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though such judgment has been

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rendered in a suit duly heard and determined by the court. Any such judgment of such circuit or superior court, unappealed from or affirmed on appeal or modified in obedience to the mandate of the court of appeals, shall be modified to conform to any decision of the industrial board ending, diminishing, or increasing any weekly payment under the provisions of subsection (i) upon the presentation to it of a certified copy of such decision.

(h) In all proceedings before the worker's compensation board or in a court under the compensation provisions of this chapter, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court. **Prejudgment interest shall be awarded at a rate of ten percent (10%) per year, accruing from the date of filing of the application for adjustment of claim as determined under subsection (a).**

(i) The power and jurisdiction of the worker's compensation board over each case shall be continuing, and, from time to time, it may, upon its own motion or upon the application of either party on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in this chapter. When compensation which is payable in accordance with an award or settlement contract approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned. Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder. The board shall not **have jurisdiction to make any such modification upon its own motion nor shall or upon** any application ~~therefor be~~ filed by either party after the expiration of two (2) years from the ~~last day for which compensation was paid under the original~~ **date of the most recent** award made either by agreement or upon hearing, ~~except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day for which compensation was paid.~~ The board may at any time correct any clerical error in any finding or award.

(j) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employee and to testify in respect thereto. Such physician or surgeon shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such

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physician or surgeon shall be paid by the state only on special order of the board or a member thereof.

(k) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified industrial hygienist, industrial engineer, industrial physician, or chemist to make any necessary investigation of the occupation in which the employee alleges that ~~he~~ **the employee** was last exposed to the hazards of the occupational disease claimed upon, and testify with respect to the occupational disease health hazards found by such person or persons to exist in such occupation. Such person or persons shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such persons shall be paid by the state, only on special order of the board or a member thereof.

(l) Whenever any claimant misconceives the claimant's remedy and files an application for adjustment of a claim under IC 22-3-2 through IC 22-3-6 and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury or death which was the basis for such application should properly have been made under the provisions of this chapter, then the application so filed under IC 22-3-2 through IC 22-3-6 may be amended in form or substance or both to assert a claim for such disability or death under the provisions of this chapter, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the worker's compensation board when deemed necessary. Nothing in this section contained shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice or time for filing a claim, but notice of filing of a claim, if given or done, shall be deemed to be a notice or filing of a claim under the provisions of this chapter if given or done within the time required in this chapter.

SECTION 39. IC 22-3-7-34.5, AS AMENDED BY P.L.202-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 34.5. (a) As used in this section, "independent contractor" refers to a person described in section 9(b)(5) of this chapter.

(b) As used in this section, "person" means an individual, a proprietorship, a partnership, a joint venture, a firm, an association, a corporation, or other legal entity.

(c) An independent contractor who does not make an election under section 9(b)(2) of this chapter or section 9(b)(3) of this chapter is not

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subject to the compensation provisions of this chapter and must file a statement with the department of state revenue and obtain a certificate of exemption.

(d) An independent contractor shall file with the department of state revenue, in the form prescribed by the department of state revenue, a statement containing the information required by IC 6-3-7-5.

(e) Together with the statement required in subsection (d), an independent contractor shall file annually with the department documentation in support of independent contractor status before being granted a certificate of exemption. The independent contractor must obtain clearance from the department of state revenue before issuance of the certificate.

(f) An independent contractor shall pay a filing fee in the amount of fifteen dollars (\$15) with the certificate filed under subsection (h). The fees collected under this subsection shall be deposited in the worker's compensation supplemental administrative fund. **and Thirty-four percent (34%) of the money in the fund shall be used allocated for all expenses the board incurs in administering this section. Sixty-six percent (66%) of the money in the fund shall be allocated for the enforcement of section 34.6 of this chapter, including the costs of hiring additional staff required by the department of labor.**

(g) The worker's compensation board shall maintain a data base consisting of certificates received under this section and on request may verify that a certificate was filed.

(h) A certificate of exemption must be filed with the worker's compensation board. The board shall indicate that the certificate has been filed by stamping the certificate with the date of receipt and returning a stamped copy to the person filing the certificate. A certificate becomes effective as of midnight seven (7) business days after the date file stamped by the worker's compensation board. The board shall maintain a data base containing information required in subsections (e) and (g).

(i) A person who contracts for services of another person not covered by this chapter to perform work must secure a copy of a stamped certificate of exemption filed under this section from the person hired. A person may not require a person who has provided a stamped certificate to have worker's compensation coverage. The worker's compensation insurance carrier of a person who contracts with an independent contractor shall accept a stamped certificate in the same manner as a certificate of insurance.

(j) A stamped certificate filed under this section is binding on and holds harmless for all claims:



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- (1) a person who contracts with an independent contractor after receiving a copy of the stamped certificate; and
- (2) the worker's compensation insurance carrier of the person who contracts with the independent contractor.

The independent contractor may not collect compensation under this chapter for an injury from a person or the person's worker's compensation carrier to whom the independent contractor has furnished a stamped certificate.

SECTION 40. IC 22-3-7-34.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 34.6. (a) As used in this section, "person" has the meaning set forth in section 34.5 of this chapter.**

(b) A person who does any of the following is subject to a civil penalty under this section:

- (1) Fails to obtain a copy of another person's stamped certificate of exemption as required under section 34.5(i) of this chapter before that person performs work on the person's behalf as an independent contractor.
- (2) Fails to keep a copy of another person's stamped certificate of exemption on file as long as that person is performing work on the person's behalf as an independent contractor.

(c) If the department of labor determines that a person has violated subsection (b)(1) or (b)(2), the department of labor may assess a civil penalty of not more than one thousand dollars (\$1,000) for each violation, plus any investigative costs incurred and documented by the department of labor. If the department of labor determines that a civil penalty is warranted, the department of labor shall consider the following factors in determining the amount of the penalty:

- (1) Whether the person performing work as an independent contractor meets the definition of an independent contractor under section 9(b)(5) of this chapter.
- (2) Whether the violation was an isolated event or part of a pattern of violations.

(d) All civil penalties collected under this section shall be deposited in the occupational disease second injury fund created under section 16.1 of this chapter.

(e) A civil penalty assessed under subsection (c):

- (1) is subject to IC 4-21.5-2-6; and
- (2) becomes effective without a proceeding under IC 4-21.5-3, unless a person requests an administrative review not later

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than thirty (30) days after the notice of assessment is given.

(f) The department of labor shall provide copies of its determinations under this section to the worker's compensation board and the department of state revenue.

SECTION 41. IC 22-4-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. **(a) Except as provided in subsections (b) and (c), "base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit period. ~~Provided,~~ However, ~~That~~ for a claim computed in accordance with IC ~~1971~~, 22-4-22, the base period shall be the base period as outlined in the paying state's law.**

(b) Effective January 1, 2005, "base period" also includes, in the case of an individual who does not have sufficient wages in the base period as set forth in subsection (a), the last four (4) completed calendar quarters immediately preceding the first day of the benefit year of the individual if the period qualifies the individual for benefits under this chapter. Wages that fall within the base period of claims established under this subsection are not available for reuse in qualifying for a subsequent benefit year.

(c) In the case of a combined wage claim under an arrangement approved by the United States Secretary of Labor, the base period is the period applicable under the unemployment compensation law of the paying state.

(d) The department shall adopt rules under IC 4-22-2 to obtain wage information if wage information for the most recent quarter of the base period as set forth under subsection (b) is not available to the department from regular quarterly reports of wage information that is systemically accessible.

SECTION 42. IC 22-4-2-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.5. **(a) Notwithstanding section 12 of this chapter, for an individual who during the "base period" as defined in that section has received worker's compensation benefits under IC 22-3-3 for a period of fifty-two (52) weeks or less, and as a result has not earned sufficient wage credits to meet the requirements of IC 22-4-14-5, "base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the last day that the individual was able to work, as a result of the individual's injury.**

(b) The provisions of section 12(b), 12(c), and 12(d) of this chapter apply beginning January 1, 2005.

SECTION 43. IC 22-4-2-22 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. "Valid claim" means a claim filed by an individual who has established qualifying wage credits and who is totally, partially, or part-totally unemployed. ~~Provided~~, No individual in a benefit period may file a valid claim for a waiting period, **if applicable**, or benefit period rights with respect to any period subsequent to the expiration of such benefit period.

SECTION 44. IC 22-4-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. "Insured unemployment" means unemployment during a given week for which waiting period credit, **if applicable**, or benefits are claimed under the state employment security program, the unemployment compensation for federal employees program, the unemployment compensation for veterans program, or the railroad unemployment insurance program.

SECTION 45. IC 22-4-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Except as otherwise provided in this section, "wages" means all remuneration as defined in section 1 of this chapter paid to an individual by an employer, remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and includes all remuneration considered as wages under Sections 3301 and 3102 et seq. of the Internal Revenue Code. However, the term shall not include any amounts paid as compensation for services specifically excluded by IC 22-4-8-3 from the definition of employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall include, but not be limited to, any payments made by an employer to an employee or former employee, under order of the National Labor Relations Board, or a successor thereto, or agency named to perform the duties thereof, as additional pay, back pay, or for loss of employment, or any such payments made in accordance with an agreement made and entered into by an employer, a union, and the National Labor Relations Board.

(b) The term "wages" shall not include the following:

- (1) That part of remuneration which, after remuneration equal to:
 - (A) seven thousand dollars (\$7,000), has been paid in a calendar year to an individual by an employer or **his the employer's** predecessor with respect to employment during any calendar year ~~subsequent to~~ **beginning after** December 31, 1982, **and before January 1, 2004; and**
 - (B) **nine thousand dollars (\$9,000), has been paid in a calendar year to an individual by an employer or the employer's predecessor for employment during a calendar year beginning after December 31, 2003;**

unless that part of the remuneration is subject to a tax under a

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federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subdivision, the term "employment" shall include service constituting employment under any employment security law of any state or of the federal government. However, nothing in this subdivision shall be taken as an approval or disapproval of any related federal legislation.

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) made to, or on behalf of, an individual or any of his dependents under a plan or system established by an employer which makes provision generally for individuals performing service for it (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents) on account of:

- (A) retirement;
- (B) sickness or accident disability;
- (C) medical or hospitalization expenses in connection with sickness or accident disability; or
- (D) death.

(3) The amount of any payment made by an employer to an individual performing service for it (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) on account of retirement.

(4) The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability made by an employer to, or on behalf of, an individual performing services for it and after the expiration of six (6) calendar months following the last calendar month in which the individual performed services for such employer.

(5) The amount of any payment made by an employer to, or on behalf of, an individual performing services for it or to his beneficiary:

- (A) from or to a trust exempt from tax under Section 401(a) of the Internal Revenue Code at the time of such payment unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust; or
- (B) under or to an annuity plan which, at the time of such payments, meets the requirements of Section 401(a)(3),

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401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue Code.

(6) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business.

(7) The amount of any payment (other than vacation or sick pay) made to an individual after the month in which he attains the age of sixty-five (65) if he did not perform services for the employer in the period for which such payment is made.

(8) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under Sections 3101 et seq. of the Internal Revenue Code (Federal Insurance Contributions Act).

SECTION 46. IC 22-4-4-3, AS AMENDED BY P.L.30-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) For calendar quarters beginning on and after April 1, 1979, and before April 1, 1984, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed three thousand six hundred sixty-six dollars (\$3,666) and may not include payments specified in section 2(b) of this chapter.

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

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

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

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

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specified in section 2(b) of this chapter.

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

(g) For calendar quarters beginning on and after July 1, 1998, and before July 1, 1999, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand six hundred dollars (\$5,600) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

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

(i) For calendar quarters beginning on and after July 1, 2000, and before July 1, 2001, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed six thousand seven hundred dollars (\$6,700) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(j) For calendar quarters beginning on and after July 1, 2001, and before July 1, 2002, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand three hundred dollars (\$7,300) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(k) For calendar quarters beginning on and after July 1, 2002, **and before July 1, 2003**, "wage credits" means remuneration paid for

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employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand nine hundred dollars (\$7,900) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(l) For calendar quarters beginning on and after July 1, 2003, and before July 1, 2004, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand four hundred thirty-three dollars (\$8,433) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(m) For calendar quarters beginning on and after July 1, 2004, and before July 1, 2005, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand nine hundred sixty-six dollars (\$8,966) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(n) For calendar quarters beginning on and after July 1, 2005, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed nine thousand five hundred dollars (\$9,500) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

SECTION 47. IC 22-4-10.5-7, AS ADDED BY P.L.290-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. **(a) After making the deposit required by subsection (b),** the department shall deposit skills 2016 training assessments paid to the department under this chapter in the skills 2016 training fund established by IC 22-4-24.5-1.

(b) After June 30, 2003, unless the board approves a lesser amount, the department annually shall deposit the first four hundred fifty thousand dollars (\$450,000) in skills 2016 training assessments paid to the department under this chapter in the special employment and training services fund established by IC 22-4-25-1 for the training and counseling assistance described



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in IC 22-4-25-1(f).

SECTION 48. IC 22-4-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **(a) This subsection applies before January 1, 2005.** As a condition precedent to the payment of benefits to an individual with respect to any week such individual shall be required to serve a waiting period of one (1) week in which he has been totally, partially or part-totally unemployed and with respect to which ~~he~~ **the individual** has received no benefits, but during which ~~he~~ **the individual** was eligible for benefits in all other respects and was not otherwise ineligible for benefits under any provisions of this article. Such waiting period shall be a week in the individual's benefit period and during such week such individual shall be physically and mentally able to work and available for work. ~~No~~ **An** individual in a benefit period may **not** file for waiting period or benefit period rights with respect to any subsequent period. ~~Provided;~~ However, ~~That~~ no waiting period shall be required as a prerequisite for drawing extended benefits.

(b) This subsection applies after December 31, 2004. An individual in a benefit period may not file for benefit period rights for any subsequent period.

SECTION 49. IC 22-4-14-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. **(a) Except for benefits due under IC 22-4-15-3.5,** for weeks of unemployment occurring after October 1, 1983, benefits may be paid to an individual on the basis of service performed in seasonal employment (as defined in IC 22-4-8-4) only if the claim is filed within the operating period of the seasonal employment. If the claim is filed outside the operating period of the seasonal employment, benefits may be paid on the basis of nonseasonal wages only.

(b) An employer shall file an application for a seasonal determination (as defined by IC 22-4-7-3) with the department of workforce development. A seasonal determination shall be made by the department within ninety (90) days after the filing of such an application. Until a seasonal determination by the department has been made in accordance with this section, no employer or worker may be considered seasonal.

(c) Any interested party may file an appeal regarding a seasonal determination within fifteen (15) calendar days after the determination by the department and obtain review of the determination in accordance with IC 22-4-32.

(d) Whenever an employer is determined to be a seasonal employer, the following provisions apply:

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(1) The seasonal determination becomes effective the first day of the calendar quarter commencing after the date of the seasonal determination.

(2) The seasonal determination does not affect any benefit rights of seasonal workers with respect to employment before the effective date of the seasonal determination.

(e) If a seasonal employer, after the date of its seasonal determination, operates its business or its seasonal operation during a period or periods of twenty-six (26) weeks or more in a calendar year, the employer shall be determined by the department to have lost its seasonal status with respect to that business or operation effective at the end of the then current calendar quarter. The redetermination shall be reported in writing to the employer. Any interested party may file an appeal within fifteen (15) calendar days after the redetermination by the department and obtain review of the redetermination in accordance with IC 22-4-32.

(f) Seasonal employers shall keep account of wages paid to seasonal workers within the seasonal period as determined by the department and shall report these wages on a special seasonal quarterly report form provided by the department.

(g) The board shall adopt rules applicable to seasonal employers for determining their normal seasonal period or periods.

SECTION 50. IC 22-4-15-1, AS AMENDED BY P.L.290-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left the individual's most recent employment without good cause in connection with the work or who was discharged from the individual's most recent employment for just cause is ineligible for waiting period, **if applicable**, or benefit rights for the week in which the disqualifying separation occurred and until the individual has earned remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of ~~his~~ **the individual's** current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will

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be raised to the next higher even dollar amount. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

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

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions; and thereafter was employed on said job;

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

(C) the individual left to accept recall made by a base period employer.

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

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

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left the individual's work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, the individual shall be deemed ineligible as outlined in this section.

(5) An otherwise eligible individual shall not be denied benefits for any week because the individual is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter

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such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

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

- (A) the employment was outside the individual's labor market;
- (B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and
- (C) the individual actually became employed with the employer in the individual's labor market.

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

(8) An individual who is an affected employee (as defined in IC 22-4-43-1(1)) and is subject to the work sharing unemployment insurance program under IC 22-4-43 is not disqualified from participating in the work sharing unemployment insurance program.

(9) The following provisions apply to an individual employed by a temporary employment agency (as defined in IC 22-5-6-7):

(A) An individual who last was employed by a temporary employment agency is not considered to have quit employment voluntarily without good cause if the individual did not contact the temporary employment agency for reassignment upon completion of the assignment.

(B) When an individual who last was employed by a temporary employment agency:

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- (i) completes an assignment with a third party;**
 - (ii) has indicated availability to accept a new assignment with a third party; and**
 - (iii) is not offered a new assignment that is within the labor market and that has substantially equivalent compensation, benefits, and working conditions;**
- the individual is eligible for benefits, subject to the waiting period as set forth in IC 22-4-14-4.**
- (C) The failure of the individual to contact the temporary employment agency is not considered a disqualification if the temporary employment firm has violated any provision of state or federal law protecting employees of temporary employment with respect to the individual.**

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

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

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

SECTION 51. IC 22-4-15-2, AS AMENDED BY P.L.290-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for waiting period, **if applicable**, or benefit rights, or extended benefit rights, if the



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department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

- (1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;
- (2) to accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service, or an employment unit; or
- (3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction shall be raised to the next higher even dollar amount. The maximum benefit amount of the individual's current claim may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

- (1) the degree of risk involved to such individual's health, safety, and morals;

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- (2) the individual's physical fitness and prior training and experience;
- (3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and
- (4) the distance of the available work from the individual's residence.

However, work under substantially the same terms and conditions under which the individual was employed by a base-period employer, which is within the individual's prior training and experience and physical capacity to perform, shall be considered to be suitable work unless the claimant has made a bona fide change in residence which makes such offered work unsuitable to the individual because of the distance involved.

(f) Notwithstanding any other provisions of this article, no work shall be considered suitable and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.
- (2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.
- (3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.
- (4) If as a condition of being employed the individual would be required to discontinue training into which the individual had entered with the approval of the department.

(g) Notwithstanding subsection (e), with respect to extended benefit periods established on and after July 5, 1981, "suitable work" means any work which is within an individual's capabilities. However, if the individual furnishes evidence satisfactory to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made as provided in subsection (e).

(h) With respect to extended benefit periods established on and after July 5, 1981, no work shall be considered suitable and extended benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the gross average weekly remuneration payable to the

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individual for the position would not exceed the sum of:

- (A) the individual's average weekly benefit amount for the individual's benefit year; plus
 - (B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.
- (2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.
- (3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.
- (4) If the position pays wages less than the higher of:
- (A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The Fair Labor Standards Act of 1938), without regard to any exemption; or
 - (B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

SECTION 52. IC 22-4-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **Except as provided in section 3.5 of this chapter**, an individual shall be ineligible for waiting period, **if applicable**, or benefit rights for any week with respect to which ~~his~~ **the individual's** total or partial or part-total unemployment is due to a labor dispute at the factory, establishment, or other premises at which ~~he~~ **the individual** was last employed.

(b) This section shall not apply to an individual if:

- (1) ~~he~~ **the individual** has terminated ~~his~~ **the individual's** employment, or ~~his~~ **the individual's** employment has been terminated, with the employer involved in the labor dispute; ~~or if~~
- (2) the labor dispute which caused ~~his~~ **the individual's** unemployment has terminated and any period necessary to resume normal activities at ~~his~~ **the individual's** place of employment has elapsed; or if
- (3) all of the following conditions exist: ~~He~~
 - (A) **The individual** is not participating in or financing or directly interested in the labor dispute which caused ~~his~~ **the individual's** unemployment. ~~and he~~
 - (B) **The individual** does not belong to a grade or class of workers of which, immediately before the commencement of

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~~his the individual's~~ unemployment, there were members employed at the same premises as ~~he; the individual~~, any of whom are participating in or financing or directly interested in the dispute. ~~and he~~

(C) The individual has not voluntarily stopped working, other than at the direction of ~~his the individual's~~ employer, in sympathy with employees in some other establishment or factory in which a labor dispute is in progress.

(c) If in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this section, be deemed to be a separate factory, establishment, or other premises.

(d) Upon request of any claimant or employer involved in an issue arising under this section, the deputy shall, and in any other case the deputy may, refer claims of individuals with respect to whom there is an issue of the application of this section to an administrative law judge who shall make the initial determination with respect thereto, in accordance with the procedure in IC 22-4-17-3.

(e) Notwithstanding any other provisions of this article, an individual shall not be ineligible for waiting period, **if applicable**, or benefit rights under this section solely by reason of ~~his the individual's~~ failure or refusal to apply for or to accept recall to work or reemployment with an employer during the continuance of a labor dispute at the factory, establishment, or other premises of the employer, if the individual's last separation from the employer occurred prior to the start of the labor dispute and was permanent or for an indefinite period.

SECTION 53. IC 22-4-15-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) As used in this section, "shuts down operations" means the termination of business by the employer, whether due to:**

- (1) a filing of a petition under 11 U.S.C. 501, 11 U.S.C. 1201, or 11 U.S.C. 1301; or**
- (2) cessation of business by the employer, whether or not dissolution procedures under IC 23-1 have been filed.**

(b) If the total or partial or part-total unemployment of an individual due to a labor dispute at the factory, establishment, or other premises at which the individual was last employed ends because the employer shuts down business and the individual continues to be totally, partially, or part-totally unemployed, the

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individual is eligible for waiting period, if applicable, or benefit rights retroactive to the date of the individual's unemployment due to the labor dispute.

(c) Any benefits provided by a labor union or other associated fund to the individual during the period of the labor dispute, other than those provided under IC 22-4-5-1(a)(10), may not be considered remuneration for purposes of computing deductible income.

(d) Any retroactive benefits due to an individual under this section shall be limited to the maximum benefit periods provided in IC 22-4-12-4.

(e) Notwithstanding IC 22-4-14-11, benefits may be paid on the basis of service performed in seasonal employment to an individual who may be due retroactive benefits under this section who:

- (1) has engaged in seasonal employment; and
- (2) has filed a claim for benefits outside the operating period of seasonal employment.

(f) IC 22-4-14-3 applies only after the date the employer shuts down business.

(g) The department may use the procedures prescribed by IC 22-4-17-1 for the taking of claims in the instance of mass layoffs for claims made under this section.

SECTION 54. IC 22-4-15-4, AS AMENDED BY P.L.290-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) An individual ~~shall be~~ is ineligible for waiting period, **if applicable**, or benefit rights for any week with respect to which the individual receives, is receiving, or has received payments equal to or exceeding ~~his~~ **the individual's** weekly benefit amount in the form of:

- (1) deductible income as defined and applied in IC 22-4-5-1 and IC 22-4-5-2; or
- (2) any pension, retirement, or annuity payments, under any plan of an employer whereby the employer contributes a portion or all of the money. This disqualification shall apply only if some or all of the benefits otherwise payable are chargeable to the experience or reimbursable account of ~~such~~ **the** employer, or would have been chargeable except for the application of this chapter. For ~~the~~ purposes of this subdivision, ~~(2)~~; federal old age, survivors, and disability insurance benefits are not considered payments under a plan of an employer whereby the employer maintains the plan or contributes a portion or all of the money to the extent required by federal law.



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(b) If the payments described in subsection (a) are less than ~~his the~~ **individual's** weekly benefit amount, an otherwise eligible individual ~~shall is not be~~ ineligible and shall be entitled to receive for ~~such the~~ week benefits reduced by the amount of such payments.

(c) This section does not preclude an individual from delaying a claim to pension, retirement, or annuity payments until the individual has received the benefits to which the individual would otherwise be eligible under this chapter. Weekly benefits received before the date the individual elects to retire shall not be reduced by any pension, retirement, or annuity payments received on or after the date the individual elects to retire.

SECTION 55. IC 22-4-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Except as provided in IC ~~1971~~, 22-4-22, an individual ~~shall be is~~ ineligible for waiting period, **if applicable**, or benefit rights for any week with respect to which or a part of which ~~he the individual~~ receives, is receiving, has received, or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States. ~~Provided, that~~ **However**, this disqualification shall not apply if the appropriate agency of such other state or of the United States finally determines that ~~he the individual~~ is not entitled to such employment benefits, including benefits to federal civilian employees and ex-servicemen pursuant to 5 U.S.C. Chapter 85.

SECTION 56. IC 22-4-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Notwithstanding any other provisions of this article, if an individual knowingly fails to disclose amounts earned during any week in ~~his the individual's~~ waiting period, **if applicable**, benefit period, or extended benefit period with respect to which benefit rights or extended benefit rights are claimed, or knowingly fails to disclose or has falsified as to any fact ~~which that~~ would have disqualified ~~him the individual~~ or rendered ~~him the individual~~ ineligible for benefits or extended benefits or would have reduced ~~his the individual's~~ benefit rights or extended benefit rights during such a week, all of ~~his the individual's~~ wage credits established prior to the week of the falsification or failure to disclose shall be cancelled, and any benefits or extended benefits ~~which that~~ might otherwise have become payable to ~~him the individual~~ and any benefit rights or extended benefit rights based upon those wage credits shall be forfeited.

SECTION 57. IC 22-4-17-2, AS AMENDED BY P.L.290-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) When an individual files an initial claim, the



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department shall promptly make a determination of ~~his~~ **the individual's** status as an insured worker in a form prescribed by the board. A written notice of the determination of insured status shall be furnished ~~him~~ **to the individual** promptly. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ~~twenty (20)~~ **ten (10)** days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) The department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. Such notice shall contain the date, the name and social security account number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit period. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer, within ~~twenty (20)~~ **ten (10)** days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

(c) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits, **if applicable**, or benefits, shall notify the department of such facts within ~~twenty (20)~~ **ten (10)** days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the board.

(d) In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which

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the claimant claims waiting period credit, **if applicable**, or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in IC 22-4-17-3.

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit, **if applicable**, or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof. Except as otherwise hereinafter provided in this subsection regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ~~twenty~~ **ten (10)** days after such notification was mailed to the claimant's or the employer's last known address, or otherwise delivered to the claimant or the employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. With respect to notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless such claimant or employer, within ~~twenty-five (25)~~ **fifteen (15)** days after such notification was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. If such hearing is desired, the request therefor shall be filed with the commissioner in writing within the prescribed periods as above set forth in this subsection and shall be in such form as the board may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(f) ~~No~~ **A** person may **not** participate on behalf of the department in any case in which the person is an interested party.

(g) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized

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by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (c).

(h) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

SECTION 58. IC 22-4-24.5-1, AS AMENDED BY P.L.1-2002, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The skills 2016 training fund is established to do the following:

- (1) Administer the costs of the skills 2016 training program established by IC 22-4-10.5.
- (2) Undertake any program or activity that furthers the purposes of IC 22-4-10.5.
- (3) Refund skills 2016 training assessments erroneously collected and deposited in the fund.

(b) ~~Subject to subsection (j), fifty-five~~ **Ninety-five** percent (55%) **(95%)** of the money in the fund shall be allocated to the state educational institution established under IC 20-12-61. The money so allocated to that state educational institution shall be used as follows:

- (1) An amount to be determined annually shall be allocated to the state educational institution established under IC 20-12-61 for its costs in administering the training programs described in subsection ~~(b)~~ **(a)**. However, the amount so allocated may not exceed ~~fifteen~~ **twelve and one-half** percent ~~(15%)~~ **(12.5%)** of the total amount of money allocated under this subsection.
- (2) After the allocation made under subdivision (1), forty percent (40%) shall be used to provide training to participants in joint labor and management building trades apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.
- (3) After the allocation made under subdivision (1), forty percent (40%) shall be used to provide training to participants in joint labor and management industrial apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.

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(4) After the allocation made under subdivision (1), twenty percent (20%) shall be used to provide training to industrial employees not covered by subdivision (2).

(c) ~~Subject to subsection (j)~~; The remainder of the money in the fund shall be allocated as follows:

(1) An amount not to exceed one million dollars (\$1,000,000) shall be allocated to the department of workforce development annually for technology needs of the department.

(2) ~~An amount not to exceed four hundred fifty thousand dollars (\$450,000) shall be allocated annually for training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department of workforce development for individuals who:~~

~~(A) have been unemployed for at least four (4) weeks;~~

~~(B) are not otherwise eligible for training and counseling assistance under any other program; and~~

~~(C) are not participating in programs that duplicate those programs described in IC 22-4-25-1(e).~~

~~Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance under this subdivision shall not be determined until after the fourth week of eligibility for unemployment training compensation benefits.~~

~~(3) (2)~~ An amount to be determined annually shall be set aside for the payment of refunds from the fund.

~~(4) (3)~~ The remainder of the money in the fund after the allocations provided for in subsection (b) and subdivisions (1) through ~~(3) (2)~~ shall be allocated to other incumbent worker training programs.

(d) The fund shall be administered by the board. However, all disbursements from the fund must be recommended by the incumbent workers training board and approved by the board as required by IC 22-4-18.3-6.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) The fund consists of the following:

(1) Assessments deposited in the fund.

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(2) Earnings acquired through the use of money belonging to the fund.

(3) Money received from the fund from any other source.

(4) Interest earned from money in the fund.

(5) Interest and penalties collected.

(h) All money deposited or paid into the fund is appropriated annually for disbursements authorized by this section.

(i) Any balance in the fund does not lapse but is available continuously to the department for expenditures consistent with this chapter.

(j) ~~If the fund ratio (as described in IC 22-4-11-3) is less than or equal to 1.5 or if the board determines that the solvency of the unemployment insurance benefit fund established by IC 22-4-26-1 is threatened, the funds assessed for or deposited in the skills 2016 training fund shall be directed or transferred to the unemployment insurance benefit fund.~~

SECTION 59. IC 22-4-25-1, AS AMENDED BY P.L.290-2001, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund **and amounts deposited as required by IC 22-4-10.5-7(b)**, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. No expenditure

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of this fund shall be made unless and until the board finds that no other funds are available or can properly be used to finance such expenditures, except that expenditures from said fund may be made for the purpose of acquiring lands and buildings or for the erection of buildings on lands so acquired which are deemed necessary by the board for the proper administration of this article. The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) The board, subject to the approval of the budget agency and governor, is authorized and empowered to use all or any part of the funds in the special employment and training services fund for the purpose of acquiring suitable office space for the department by way of purchase, lease, contract, or in any part thereof to purchase land and erect thereon such buildings as the board determines necessary or to assist in financing the construction of any building erected by the state or any of its agencies wherein available space will be provided for the department under lease or contract between the department and the state or such other agency. The commissioner may transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of any land and buildings acquired for its use until such time as the full amount of the purchase price of such land and buildings and such cost of repair and maintenance

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thereof as was expended from the special employment and training services fund has been returned to such fund.

(c) The board may also transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of space used by the department in any building erected by the state or any of its agencies until such time as the department's proportionate amount of the purchase price of such building and the department's proportionate amount of such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(d) Whenever the balance in the special employment and training services fund is deemed excessive by the board, the board shall order payment into the unemployment insurance benefit fund of the amount of the special employment and training services fund deemed to be excessive.

(e) Subject to the approval of the board, the commissioner may use not more than five million dollars (\$5,000,000) during a program year for training provided by the state educational institution established under IC 20-12-61 to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training. Of the money allocated for training programs under this subsection, fifty percent (50%) is designated for industrial programs, and the remaining fifty (50%) percent is designated for building trade programs.

(f) The commissioner shall allocate an amount not to exceed four hundred fifty thousand dollars (\$450,000) annually for training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department of workforce development for individuals who:

- (1) have been unemployed for at least four (4) weeks;**
- (2) are not otherwise eligible for training and counseling assistance under any other program; and**
- (3) are not participating in programs that duplicate those programs described in subsection (e).**

Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance under this subdivision shall not be determined until after the fourth week of eligibility for unemployment training compensation



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benefits. The training and counseling assistance programs funded by this subsection must be approved by the United States Department of Labor's Bureau of Apprenticeship Training."

Page 3, between lines 37 and 38, begin a new paragraph and insert:
"SECTION 61. IC 22-4-43 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 43. Work Sharing

Sec. 1. The following definitions apply throughout this chapter:

- (1) "Affected employee" means an individual who has been continuously on the payroll of an affected unit for at least three (3) months before the employing unit submits a work sharing plan.
- (2) "Affected unit" means a specific plant, department, shift, or other definable unit of an employing unit:
 - (A) that has at least two (2) employees; and
 - (B) to which an approved work sharing plan applies.
- (3) "Approved work sharing plan" means a plan that satisfies the purpose set forth in section 2 of this chapter and has the approval of the commissioner.
- (4) "Commissioner" means the commissioner of workforce development appointed under IC 22-4.1-3-1.
- (5) "Normal weekly work hours" means the lesser of:
 - (A) the number of hours that an employee in the affected unit works when the unit is operating on its normal full-time basis; or
 - (B) forty (40) hours.
- (6) "Work sharing benefit" means a benefit payable to an affected employee for work performed under an approved work sharing plan, but does not include benefits that are otherwise payable under this article.
- (7) "Work sharing employer" means an employing unit for which a work sharing plan has been approved.
- (8) "Work sharing plan" means a plan of an employing unit under which:
 - (A) normal weekly work hours of affected employees are reduced; and
 - (B) affected employees share the work that remains after the reduction.

Sec. 2. The work sharing unemployment insurance program seeks to:

- (1) preserve the jobs of employees and the workforce of an

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employer during lowered economic activity by reduction in work hours or workdays rather than by a layoff of some employees while other employees continue their normal weekly work hours or workdays; and

(2) ameliorate the adverse effect of reduction in business activity by providing benefits for the part of the normal weekly work hours or workdays in which an employee does not work.

Sec. 3. An employing unit that wishes to participate in the work sharing unemployment insurance program shall submit to the commissioner a written work sharing plan.

Sec. 4. (a) Within fifteen (15) days after receipt of a work sharing plan, the commissioner shall give written approval or disapproval of the plan to the employing unit.

(b) The decision of the commissioner to disapprove a work sharing plan is final and may not be appealed.

(c) An employing unit may submit a new work sharing plan not less than fifteen (15) days after disapproval of a work sharing plan.

Sec. 5. The commissioner shall approve a work sharing plan that meets the following requirements:

(1) The work sharing plan must apply to:

(A) at least ten percent (10%) of the employees in an affected unit; or

(B) at least twenty (20) employees in an affected unit.

(2) The normal weekly work hours of affected employees in the affected unit shall be reduced by at least ten percent (10%), but the reduction may not exceed fifty percent (50%) unless waived by the commissioner.

Sec. 6. A work sharing plan must:

(1) identify the affected unit;

(2) identify each employee in the affected unit by:

(A) name;

(B) Social Security number; and

(C) any other information the commissioner requires;

(3) specify an expiration date that is not more than six (6) months after the effective date of the work sharing plan;

(4) specify the effect that the work sharing plan will have on the fringe benefits of each employee in the affected unit, including:

(A) health insurance for hospital, medical, dental, and similar services;

(B) retirement benefits under benefit pension plans as

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defined in the federal Employee Retirement Income Security Act (29 U.S.C. 1001 et seq.);

(C) holiday and vacation pay;

(D) sick leave; and

(E) similar advantages;

(5) certify that:

(A) each affected employee has been continuously on the payroll of the employing unit for three (3) months immediately before the date on which the employing unit submits the work sharing plan; and

(B) the total reduction in normal weekly work hours is in place of layoffs that would have:

(i) affected at least the number of employees specified in section 5(1) of this chapter; and

(ii) resulted in an equivalent reduction in work hours; and

(6) contain the written approval of the collective bargaining agent for each collective bargaining agreement that covers any affected employee in the affected unit.

Sec. 7. If a work sharing plan serves the work sharing employer as a transitional step to permanent staff reduction, the work sharing plan must contain a reemployment assistance plan for each affected employee that the work sharing employer develops with the commissioner.

Sec. 8. The work sharing employer shall agree to:

(1) submit reports that are necessary to administer the work sharing plan; and

(2) allow the department to have access to all records necessary to:

(A) verify the work sharing plan before its approval; and

(B) monitor and evaluate the application of the work sharing plan after its approval.

Sec. 9. (a) An approved work sharing plan may be modified if the modification meets the requirements for approval under section 6 of this chapter and the commissioner approves the modifications.

(b) An employing unit may add an employee to a work sharing plan when the employee has been continuously on the payroll for three (3) months.

(c) An approved modification of a work sharing plan may not change its expiration date.

Sec. 10. (a) An affected employee is eligible under this chapter

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to receive work sharing benefits for each week in which the commissioner determines that the affected employee is:

- (1) able to work; and
- (2) available for more hours of work or full-time work for the worksharing employer.

(b) An affected employee who otherwise is eligible may not be denied work sharing benefits for lack of effort to secure work as set forth in IC 22-4-14-3 or for failure to apply for available suitable work as set forth in IC 22-4-15-2 from a person other than the work sharing employer.

(c) An affected employee shall apply for benefits under IC 22-4-17-1.

(d) An affected employee who otherwise is eligible for benefits is:

- (1) considered to be unemployed for the purpose of the work sharing unemployment insurance program; and
- (2) not subject to the requirements of IC 22-4-14-2.

Sec. 11. The weekly work sharing unemployment compensation benefit due to an affected worker is determined in STEP FIVE of the following formula:

STEP ONE: Determine the weekly benefit that would be due to the affected employee under IC 22-4-12-4.

STEP TWO: Subtract the number of the employee's work hours under the approved work sharing plan from the number of the employee's normal work hours.

STEP THREE: Divide the STEP TWO result by the number of the employee's normal work hours.

STEP FOUR: Multiply the number determined in STEP ONE by the quotient determined in STEP THREE.

STEP FIVE: If the product determined under STEP FOUR is not a multiple of one dollar (\$1), round down to the nearest lower multiple of one dollar (\$1).

Sec. 12. (a) An affected employee is eligible to receive not more than twenty-six (26) weeks of work sharing benefits during each benefit year.

(b) The total amount of benefits payable under IC 22-4-12-4 and work sharing benefits payable under this chapter may not exceed the total payable for the benefit year under IC 22-4-12-4(a).

Sec. 13. During a week in which an affected employee who otherwise is eligible for benefits does not work for the work sharing employer:

- (1) the individual shall be paid unemployment insurance

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benefits in accordance with IC 22-4-12; and

(2) the week does not count as a week for which a work sharing benefit is received.

Sec. 14. During a week in which an employee earns wages under an approved work sharing plan and other wages, the work sharing benefit shall be reduced by the same percentage that the combined wages are of wages for normal weekly work hours if the other wages:

(1) exceed the wages earned under the approved work sharing plan; and

(2) do not exceed ninety percent (90%) of the wages that the individual earns for normal weekly work hours.

This computation applies regardless of whether the employee earned the other wages from the work sharing employer or another employer.

Sec. 15. While an affected employee applies for or receives work sharing benefits, the affected employee is not eligible for:

(1) extended benefits under IC 22-4-12-4; or

(2) supplemental federal unemployment compensation.

Sec. 16. Work sharing benefits shall be charged to the work sharing employer's experience balance in the same manner as unemployment insurance is charged under this article. Employers liable for payments instead of contributions shall have work sharing benefits attributed to service in their employ in the same manner as unemployment insurance is attributed under this article.

Sec. 17. The commissioner may revoke approval of an approved work sharing plan for good cause, including:

(1) conduct or an occurrence that tends to defeat the intent and effective operation of the approved work sharing plan;

(2) failure to comply with an assurance in the approved work sharing plan;

(3) unreasonable revision of a productivity standard of the affected unit; and

(4) violation of a criterion on which the commissioner based the approval of the work sharing plan.

Sec. 18. This chapter expires January 1, 2006.

SECTION 62. IC 22-4-44 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 44. Expanded Unemployment Insurance Benefits While in State Training



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Sec. 1. It is the intent of the general assembly that:

- (1) a training benefits program be established to provide unemployment insurance benefits to unemployed individuals who participate in training programs necessary for their reemployment;**
- (2) funding for the program be limited by a specified maximum amount each fiscal year;**
- (3) individuals unemployed as a result of structural changes in the economy and technological advances rendering their skills obsolete must receive the highest priority for participation in the program;**
- (4) individuals for whom suitable employment is available are not eligible for additional benefits while participating in training; and**
- (5) the program must serve the following goals:**
 - (A) Retraining should be available for those unemployed individuals whose skills are no longer in demand.**
 - (B) To be eligible for retraining, an individual must have a long term attachment to the labor force.**
 - (C) Training must enhance the individual's marketable skills and earning power.**
 - (D) Retraining must be targeted to those industries or skills that are in high demand within the labor market.**

Sec. 2. The following definitions apply throughout this chapter:

- (1) "High demand" means demand for employment that exceeds the supply of qualified workers for occupations or skill sets in a labor market area.**
- (2) "State educational institution" has the meaning set forth in IC 20-12-0.5-1 and includes an equivalent educational institution in another state that also receives appropriations from the general assembly of the other state.**
- (3) "Sufficient tenure" means earning a plurality of wages in a particular occupation or using a particular skill set during the base period and at least two (2) of the four (4) twelve (12) month periods immediately preceding the base period.**
- (4) "Training benefits" means additional benefits paid under this chapter.**
- (5) "Training program" means:**
 - (A) an education program determined to be necessary as a prerequisite to vocational training after counseling at the state educational institution in which the individual enrolls under the individual's approved training program; or**



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(B) a vocational training program at a state educational institution that:

- (i) is targeted to training for a high demand occupation. The assessment of high demand occupations authorized for training under this chapter must be substantially based on labor market and employment information developed by the department of workforce development in cooperation with the commissioner of labor under IC 22-1-1-8(2);**
- (ii) is likely to enhance the individual's marketable skills and earning power; and**
- (iii) meets the criteria for performance developed by the department of workforce development for the purpose of determining those training programs eligible for funding under 29 U.S.C. 2911 et seq.**

The term does not include any course of education primarily intended to meet the requirements of a baccalaureate or higher degree, unless the training meets specific requirements for certification, licensing, or specific skills necessary for the occupation.

Sec. 3. Subject to availability of funds, training benefits are available for an individual who meets all the following conditions:

- (1) The individual is eligible for or has exhausted entitlement to unemployment compensation benefits.**
- (2) The individual is a dislocated worker who:**
 - (A) has been terminated or received a notice of termination from employment;**
 - (B) is eligible for or has exhausted entitlement to unemployment compensation benefits; and**
 - (C) is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for the individual's skills in that occupation or industry.**
- (3) Except as provided under subdivision (4), the individual has demonstrated, through a work history, sufficient tenure in an occupation or in work with a particular skill set. This screening will take place during the assessment process.**
- (4) The individual is, after assessment of demand for the individual's occupation or skills in the individual's labor market, determined to need job related training to find suitable employment in the individual's labor market. The assessment of demand for the individual's occupation or skill**

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sets must be substantially based on declining occupation or skill sets identified in local labor market areas by the department of workforce development.

(5) The individual develops an individual training program that is submitted to the commissioner for approval within sixty (60) days after the individual is notified by the department of the requirements of this section.

(6) The individual enters the approved training program within ninety (90) days after the date of the notification, unless the department determines that the training is not available during the ninety (90) day period, in which case the individual enters training as soon as it is available.

(7) The individual is enrolled in training approved under this chapter on a full-time basis as determined by the state educational institution and is making satisfactory progress in the training as certified by the state educational institution.

Sec. 4. An individual is not eligible for training benefits under this chapter if the individual:

- (1) is a standby claimant who expects recall to the individual's regular employer;
- (2) has a definite recall date that is within six (6) months after the date the individual has been laid off; or
- (3) is unemployed due to regular seasonal employment as defined in IC 22-4-8-4(a).

Sec. 5. Benefits shall be paid as follows:

- (1) The total training benefit amount shall be fifty-two (52) times the individual's weekly benefit amount, reduced by the total amount of regular benefits and extended benefits paid or considered paid with respect to the benefit year.
- (2) The weekly benefit amount shall be the same as the regular weekly amount payable during the applicable benefit year and shall be paid under the same terms and conditions as regular benefits. The training benefits shall be paid before any extended benefits but not before any similar federally funded program.
- (3) Training benefits are not payable for weeks more than two (2) years beyond the end of the benefit year of the regular claim.

Sec. 6. The provisions of IC 22-4-2-34(i) relating to exhaustees and regular benefits do not apply to an individual otherwise eligible for training benefits under this chapter when the individual's benefit year ends before the training benefits are



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exhausted and the individual is eligible for a new benefit year. The individual will have the option of remaining on the original claim or filing a new claim.

Sec. 7. An individual who receives training benefits under this chapter or under any previous additional benefits program for training is not eligible for training benefits under this chapter for five (5) years after the last receipt of training benefits under this chapter or under any previous additional benefits program for training.

Sec. 8. All base period employers are interested parties to the approval of training and the granting of training benefits.

Sec. 9. The department of workforce development in cooperation with the commissioner of labor under IC 22-1-1-8(2) must identify occupations and skill sets that are declining and occupations and skill sets that are in high demand. The department of workforce development shall update this information annually or more frequently if needed.

Sec. 10. The department may pay training benefits under section 3 of this chapter but may not obligate expenditures beyond the appropriation made by the general assembly or beyond funds available to the department under IC 22-4-40-11. The department shall develop a procedure to ensure that expenditures do not exceed available funds and to prioritize access to funds when again available.

Sec. 11. The department shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 63. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 6. Protection for Temporary Employees in the Construction Trades

Sec. 1. As used in this chapter, "benefits" means compensation provided in addition to wages, including any of the following:

- (1) Accrual of seniority.
- (2) Credit for length of service.
- (3) Disability and health insurance.
- (4) Holiday pay or time off.
- (5) Pension entitlement accrual.
- (6) Sick leave.
- (7) Vacation leave or pay.

Sec. 2. As used in this chapter, "client company" means a business that leases the services of employees or receives services

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or functions through temporary employment agencies.

Sec. 3. As used in this chapter, "construction trades" means any trade or occupation involving construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, or excavation.

Sec. 4. As used in this chapter, "department" refers to the department of labor.

Sec. 5. As used in this chapter, "liquidity fee" means a penalty charged by a temporary employment agency against:

- (1) a temporary employee for accepting a position of employment with the client company; or
- (2) a client company for hiring a temporary employee.

Sec. 6. As used in this chapter, "substantially equivalent work" means work on jobs:

- (1) the performance of which requires equal skill, effort, and responsibility; and
- (2) under similar working conditions.

Sec. 7. As used in this chapter, "temporary employee" means a temporary employment agency employee who, in the course of employment, performs personal services in the construction trades on a temporary basis to a third party client company under the direction and control of the third party client company. The term does not include a person who is an independent contractor in the construction trades under IC 22-3-6-1(b)(7).

Sec. 8. As used in this chapter, "temporary employment agency" means an employer that for a fee:

- (1) recruits;
- (2) procures;
- (3) refers;
- (4) places; or
- (5) employs;

workers to perform personal services on a temporary basis to a third party client company under the direction and control of the third party client company.

Sec. 9. A temporary employment agency shall post in its labor hall where temporary employees are required to appear for assignment to work or, if there is no such labor hall, provide to each temporary employee seeking employment a list of all client companies at which work is available through the temporary employment agency. The list must include the following for each job opportunity posted:



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- (1) The name and address of the client company and the exact address of the worksite, directions to the worksite, and a telephone number at which a temporary employee could be reached in an emergency situation.
- (2) The type of job opportunity for temporary employees.
- (3) A detailed description of the work to be performed by the temporary employee, including any requirements for special attire, accessories, tools, or safety equipment.
- (4) The method of computing compensation and the amount of compensation and benefits to be paid for the work, and the overtime rate of compensation if it might be available.
- (5) Any cost of the transportation to the temporary employee.
- (6) The duration of the work to be performed by the temporary employee, including:
 - (A) the time of day the work will begin;
 - (B) the time of day the work will end;
 - (C) the schedule of days on which the work will be performed;
 - (D) when the work is expected to end; and
 - (E) whether there is any possibility of overtime work or extension of the work past the anticipated end date.
- (7) Any safety or hazardous material information that is available to the temporary employment agency shall be made available to the temporary employee. The information must include, but is not limited to, a complete and accurate description of worksite hazards to which the temporary employee may become exposed, including any hazardous materials that the temporary employee may be required to use or handle and any physical conditions or work practices that do not comply with applicable occupational health and safety standards.
- (8) Whether a meal is provided, either by the temporary employment agency or the client company, and any cost of the meal to the temporary employee.

Sec. 10. A temporary employment agency shall:

- (1) compensate temporary employees for work performed in the manner of payment set forth in IC 22-2-5-1;
- (2) offer pay and benefits equal to those provided to the permanent employees of the client company to temporary employees who have been employed at the premises of the client company for a total of at least ninety (90) days, whether or not continuously, and who perform substantially equivalent



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work compared to employees of the client company where the temporary employees work;

(3) subject to subdivision (2), compensate temporary employees at a rate at or above the federal minimum wage, which shall not be reduced to less than the federal minimum wage by deductions other than those permitted by federal or state law;

(4) include a written notification with each payment of wages to the temporary employee, which shall be included on the temporary employee's statement of earnings and deductions, specifying:

(A) the hourly rate paid for the temporary employee;

(B) the itemized deductions made from the wage payment made to the temporary employee by the temporary employment agency; and

(C) an itemized list of benefits provided to the temporary employee by the temporary employment agency; and

(5) provide each temporary employee with an annual earnings summary not later than February 1 for the preceding calendar year.

Sec. 11. A temporary employment agency shall not charge a temporary employee:

(1) for safety equipment, clothing, tools, accessories, or any other items required by the nature of the work, either by law, custom, or a requirement of the client company. This subdivision does not preclude the temporary employment agency from charging the temporary employee the market value of items temporarily provided to the temporary employee by the temporary employment agency if the temporary employee willfully fails to return the items to the temporary employment agency; however, a charge may not be made for items damaged through ordinary use or lost through no fault of the temporary employee;

(2) for merchandise or supplies other than those referenced in subdivision (1) that the temporary employment agency makes available for purchase at a higher price than merchandise or supplies sold to others, as provided in IC 22-2-4-3;

(3) to transport the temporary employee to or from a worksite;

(4) for directly or indirectly cashing a temporary employee's paycheck; or

(5) if a meal is provided at the worksite by the temporary

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employment agency, more than the actual cost of providing the meal, but the purchase of a meal may not be a condition of employment.

Sec. 12. (a) A temporary employment agency that operates a labor hall where temporary workers are required to appear for:

- (1) assignment to work; or
- (2) payment of compensation;

shall provide facilities for temporary employees waiting at the labor hall for a job assignment that includes restroom facilities, drinking water, and sufficient seating.

(b) A temporary employment agency shall insure at the minimum rate required by the law of the state in which the motor vehicle is registered any motor vehicle owned or operated by the temporary employment agency and used for the transportation of temporary employees.

(c) All advertisements of a temporary employment agency must contain the correct name of the temporary employment agency and one (1) of the following:

- (1) The street address of the place of business of the temporary employment agency.
- (2) The correct telephone number of the temporary employment agency at its place of business.

Sec. 13. (a) A temporary employment agency shall not restrict the right of:

- (1) a temporary employee to accept a permanent position with a client company to whom the temporary employee is referred for temporary employment; or
- (2) the client company to offer employment to a temporary employee of the temporary employment agency.

However, this chapter does not restrict the temporary employment agency from receiving a reasonable liquidity fee from the client company.

(b) A temporary employment agency shall not make or give, or cause to be made or given any false, leading, or deceptive advertisements, information, or representation concerning the services, compensation, benefits, or work opportunities that the client company will provide to the temporary employees.

Sec. 14. The worker's compensation insurance premiums of a temporary employment agency shall be determined and paid based on the experience rating of the client company for which the temporary employee performs services if the client company has sufficient worker's compensation premium volume to be

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experience rated. Otherwise, the premiums shall be the rate approved for an employer that cannot be experience rated.

Sec. 15. A temporary employment agency or client company shall not:

- (1) discharge;
- (2) discipline; or
- (3) penalize in any other manner;

a temporary employee because the temporary employee, or a person acting on behalf of the temporary employee, reports a violation or alleged violation of section 9, 10, 11, 12, or 13 of this chapter to the temporary employment agency or to a local or state official, or because the temporary employee, or a person acting on behalf of the temporary employee, exercises any right under this chapter.

Sec. 16. A temporary employment agency that violates section 9, 11, 12, 13, or 15 of this chapter commits a Class A misdemeanor.

Sec. 17. (a) A temporary employee may bring a civil action against a temporary employment agency to enforce section 10 of this chapter and seek compensation for charges made in violation of section 11 of this chapter within two (2) years after the alleged violation.

(b) If a temporary employment agency violates section 10 of this chapter, the court may do the following:

- (1) Award:
 - (A) treble damages for loss of wages and other benefits; and
 - (B) court costs and reasonable attorney's fees; to the prevailing temporary employee.
- (2) Enjoin further violations of this chapter by the temporary employment agency.

Sec. 18. (a) The department and its authorized inspectors and agents shall enforce this chapter. The department and its inspectors and agents may visit and inspect, at all reasonable hours and as often as practicable and necessary, all establishments governed by this chapter.

(b) When requested in writing by the department, the attorney general shall assist the department in enforcing this chapter against all violations.

(c) In addition to the civil action that may be brought by the temporary employee under section 17(a) of this chapter, a temporary employment agency that violates this chapter may be assessed a civil penalty by the department of not less than two

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thousand five hundred dollars (\$2,500) and not more than five thousand dollars (\$5,000) for each offense. The department shall collect the civil penalties and shall disburse the civil penalties as reimbursement of wages to the temporary employees who have been found by the department to have been damaged by the temporary employment agency's failure to comply with this chapter, with any remaining balance deposited in the state general fund.

(d) A civil penalty assessed under subsection (c):

(1) is subject to IC 4-21.5-3-6; and

(2) becomes effective without a proceeding under IC 4-21.5-3 unless a person requests an administrative review not later than thirty (30) days after notice of the assessment is given.

SECTION 64. IC 27-4-1-4, AS AMENDED BY P.L.130-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement,

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announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of his insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the

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nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

- (i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;
- (ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or
- (iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay,

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allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

- (A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.
- (B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.
- (C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.
- (D) Paying by an insurer or agent thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed agent thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, agent, or solicitor duly licensed under the laws of this state, but such broker, agent, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.
- (9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the

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property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance agent or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of its or his right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of agents or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, agent, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon, of his, her, or its right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

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(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

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(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 22-3-3-13 concerning second injury fund assessments.

(26) Violating IC 22-3-7-16.1 concerning occupational disease second injury fund assessments.

SECTION 65. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 5-16-7-6, as added by this act, the department of labor shall carry out the duties imposed upon it under IC 5-16-7, as amended by this act, under interim written guidelines approved by the commissioner of the department of labor.

(b) This SECTION expires on the earlier of:

(1) the date rules are adopted under IC 5-16-7-6, as added by this act; or

(2) December 31, 2003.

SECTION 66. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 22-1-1-22, as added by this act, the department of labor shall carry out the duties imposed upon it under IC 22-1-1-22, as added by this act, under interim written guidelines approved by the commissioner of the department of labor.

(b) This SECTION expires on the earlier of:

(1) the date rules are adopted under IC 22-1-1-22, as added by this act; or

(2) March 1, 2004.

SECTION 67. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 22-4-43-13, as added by this act, the unemployment insurance board shall carry out the duties imposed upon it under IC 22-4-43-13, as added by this act, under interim written guidelines recommended by the commissioner of workforce development and approved by the unemployment insurance board.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 22-4-43-13, as added by this act.

(2) December 31, 2004.



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SECTION 68. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 22-4-44-11, as added by this act, the department of workforce development shall carry out the duties imposed upon it under IC 22-4-44-11, as added by this act, under interim written guidelines recommended by the commissioner of workforce development and approved by the incumbent workers training board and the unemployment insurance board.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 22-4-44-11, as added by this act.

(2) December 31, 2004.

SECTION 69. [EFFECTIVE JULY 1, 2003] (a) The department of workforce development shall adopt rules under IC 22-4-2-12, as amended by this act, before January 1, 2005.

(b) This SECTION expires January 2, 2005.

SECTION 70. IC 22-4-10.5-1 IS REPEALED [EFFECTIVE JULY 1, 2003]."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1003 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 8, nays 6.

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