



Journal of the House

State of Indiana

111th General Assembly

Second Regular Session

Twenty-fifth Meeting Day

Monday Morning

February 21, 2000

The House convened at 10:00 a.m. with the Speaker in the Chair.

The invocation was offered by Reverend Lewis Jackson, United in Christ Church, Anderson, the guest of Representative Scott Mellinger.

The Pledge of Allegiance to the Flag was led by Representative Robert A. Hoffman.

The Speaker ordered the roll of the House to be called:

T. Adams	Kromkowski
Alderman	Kruse
Atterholt	Kruzan
Avery	Kuzman
Ayres	Lawson
Bailey	Leuck
Bardon	Liggett
Bauer	Linder
Becker	J. Lutz
Behning	Lytle
Bischoff	Mahern
Bodiker	Mangus U
Bosma	Mannweiler
Bottorff	McClain
C. Brown	Mellinger
T. Brown	Mock
Buck	Moses
Budak	Munson
Buell	Murphy
Burton	Oxley
Cheney	Pelath •
Cherry	Pond
Cochran	Porter
Cook	Richardson
Crawford	Ripley
Crooks	Robertson
Crosby	Ruppel
Day	Saunders
Denbo	Scholer
Dickinson •	M. Smith
Dillon	V. Smith
Dobis	Steele
Dumezich	Stevenson
Duncan	Stilwell
Dvorak	Sturtz
Espich	Summers •
Foley	Thompson
Frenz	Tincher
Friend	Torr
Frizzell	Turner
Fry	Ulmer
GiaQuinta	Villalpando
Goeglein	Weinzapfel
Grubb	Welch
Harris	Whetstone
Hasler	Wolkins
Herrell	D. Young
Hoffman	M. Young
Kersey	Yount
Klinker	Mr. Speaker

Roll Call 261: 96 present; 3 excused; 1 absent. The Speaker announced a quorum in attendance. [NOTE: • indicates those who

were excused and U indicates who were absent.]

HOUSE MOTION

Mr. Speaker: I move that we dispense with the reading of the Journal.

LIGGETT

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Thursday, February 24, 2000, at 10:00 a.m.

MELLINGER

Motion prevailed.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 57

Representatives Ruppel and Ayres introduced House Concurrent Resolution 57:

A CONCURRENT RESOLUTION honoring Scott Priebe, the 1999-2000 FFA State President.

Whereas, Scott Priebe is the 1999-2000 Indiana FFA State President;

Whereas, Scott, the son of Terry and Bonita Priebe, has been selected to serve the over 8900 members of the Indiana FFA Association;

Whereas, Scott, of Ladoga, Indiana, previously served the Southmont FFA as the chapter President, Vice President, and Points Keeper, as well as the District IV President and Vice President;

Whereas, His interests range from the soils evaluation team, to the crops contest, where his team placed first in the state four consecutive years and placed first in the national contest;

Whereas, In addition, Scott was on the state winning floriculture team that placed ninth in the national contest;

Whereas, Scott Priebe, 19, was a highly competitive swimmer and runner throughout high school, as well as completing ten years in 4-H, where he served as Junior Leader President, Council member, and Fair Board member;

Whereas, Scott has been accepted to Purdue University to major in agricultural sales and marketing, with an international studies minor, having received a National FFA Scholarship; and

Whereas, As an outstanding example of Indiana's young farmer scholars, Scott Priebe will travel during his year of service to promote and enhance agriculture education and the FFA: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. The Indiana General Assembly congratulates Scott Priebe for his election as the 1999-2000 State President of the Indiana FFA and his outstanding career as a farmer scholar.

SECTION 2. The Principal Clerk of the House of Representatives is directed to transmit a copy of this resolution to Scott Priebe.

The resolution was read a first time and adopted by voice vote.

The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Wheeler and Weatherwax.

House Concurrent Resolution 58

Representatives Ruppel and Ayres introduced House Concurrent Resolution 58:

A CONCURRENT RESOLUTION honoring Stephanie Warner, the 1999-2000 FFA State Secretary.

Whereas, Stephanie Warner is the 1999-2000 Indiana FFA State Secretary;

Whereas, Stephanie, the daughter of Tom and LuAnn Warner, has been selected to serve the over 8900 members of the Indiana FFA Association;

Whereas, Stephanie, of South Whitley, Indiana, previously served the Whitko FFA as Chapter Reporter and District II President;

Whereas, Stephanie was a part of the State Championship Livestock, Meats, Horse, and Farm Business Management Career Development Event teams that all went onto national contests;

Whereas, Stephanie also was involved in the "Food For America" Program and middle school agriculture program;

Whereas, In addition, Stephanie was the recipient of the Dekalb Leadership Award, editor of the chapter newsletter, and winner of the District II Extemporaneous Public Speaking Contest, Food Science Demonstration, and Female Leadership Ambassador contests;

Whereas, Stephanie 18, was active in numerous organizations and clubs throughout her four years of high school where she served as President of the National Honor Society, Student Council, and Cleveland Southern Showman 4-H Club, and also was a member of the varsity basketball, golf, and volleyball teams;

Whereas, Stephanie plans to attend Purdue University and major in Agricultural Education and one day become an agricultural teacher and FFA Advisor or be involved in agri-business; and

Whereas, As an outstanding example of Indiana's young farmer scholars, Stephanie Warner will travel during her year of service to promote and enhance agriculture education and the FFA: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. The Indiana General Assembly congratulates Stephanie Warner for her election as the 1999-2000 State Secretary of the Indiana FFA and his outstanding career as a farmer scholar.

SECTION 2. The Principal Clerk of the House of Representatives is directed to transmit a copy of this resolution to Stephanie Warner.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Wheeler and Weatherwax.

House Concurrent Resolution 59

Representatives Ruppel and Ayres introduced House Concurrent Resolution 59:

A CONCURRENT RESOLUTION honoring Katie Robertson, the 1999-2000 Indiana FFA State Southern Region Vice President.

Whereas, Katie Robertson is the 1999-2000 Indiana FFA State Southern Region Vice President;

Whereas, Katie, the daughter of Jim and Teresa Robertson, has been selected to serve the over 8900 members of the Indiana FFA Association;

Whereas, Katie, of Edinburgh, Indiana, served her own chapter as the Secretary and as District VIII President

Whereas, Katie has participated in leadership contests and was involved in Career Development Events;

Whereas, In addition Katie is the recipient of a Scholarship Award, Dekalb Leadership Award, Star Chapter Farmer Leadership

Award, and District Sheep Production Proficiency Winner;

Whereas, Katie 18, served as captain of cross country, basketball, track, and Spartanette Dance and Flag teams her senior year, and received many best mental attitude awards throughout her career at Southwestern Consolidated Schools of Shelby County.

Whereas, Katie plans to attend Purdue University and major in general agriculture, having received scholarships such as Blue River Foundation, Shelby County Ag Promotions, Perma Lean Pork, and a National FFA/NAPA Auto Parts Scholarship; and

Whereas, As an outstanding example of Indiana's young farmer scholars, Katie Robertson will travel during her year of service to promote and enhance agriculture education and the FFA: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. The Indiana General Assembly congratulates Katie Robertson for her election as the 1999-2000 Indiana FFA State Southern Region Vice President and her outstanding career as a farmer scholar.

SECTION 2. The Principal Clerk of the House of Representatives is directed to transmit a copy of this resolution to Katie Robertson.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Wheeler and Weatherwax.

House Concurrent Resolution 60

Representatives Ruppel and Ayres introduced House Concurrent Resolution 60:

A CONCURRENT RESOLUTION honoring Matt Morris, the 1999-2000 FFA State Vice President.

Whereas, Matt Morris is the 1999-2000 Indiana FFA Vice President;

Whereas, Matt, the son of Marlin and Donna Morris, has been selected to serve the over 8900 members of the Indiana FFA Association;

Whereas, Matt, of Russiaville, Indiana, previously served the Clinton Central FFA as the chapter President, Vice President, and committee chairman;

Whereas, Matt was involved in the Parliamentary Procedure, Agriculture Leadership Ambassador, and the Extemporaneous Public Speaking contests;

Whereas, In addition, Matt presented a state winning Production Demonstration and was on the state winning livestock team this past year;

Whereas, Matt received the Vocational Education Award for Excellence and the Purdue School of Agriculture Award for Excellence;

Whereas, In high school, Matt was Vice President of the National Honor Society, as well as the Fellowship of Christian Athletes, and participated in basketball, football, baseball and golf; and

Whereas, Matt plans to attend Purdue University to major in Animal Science with plans of attending the Veterinary School of Medicine;

Whereas, As an outstanding example of Indiana's young farmer scholars, Matt Morris will travel during his year of service to promote and enhance agriculture education and the FFA: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. The Indiana General Assembly congratulates Matt Morris for his election as the 1999-2000 State Vice President of the Indiana FFA and his outstanding career as a farmer scholar.

SECTION 2. The Principal Clerk of the House of Representatives

is directed to transmit a copy of this resolution to Matt Morris.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Wheeler and Weatherwax.

House Concurrent Resolution 61

Representatives Ruppel and Ayres introduced House Concurrent Resolution 61:

A CONCURRENT RESOLUTION honoring Joey Martin, the 1999-2000 FFA State Treasurer.

Whereas, Joey Martin is the 1999-2000 Indiana FFA State Treasurer;

Whereas, Joey, the son of John and Deborah Martin, has been selected to serve the over 8900 members of the Indiana FFA Association;

Whereas, Joe, of Walton, Indiana, previously served the Lewis Cass FFA as the chapter President and Vice President, as well as the District V Reporter and the State Chorus President;

Whereas, Joey participated in various leadership contests including the agriculture production demonstration, quiz bowl, and talent in which he placed fourth at state, and was a member of the State Chorus for four years, and the National Chorus for two years;

Whereas, Joey has been presented with several honors including the Star Greenhand Award, Star Chapter Farmer Award, district Star Farmer Award, and Dekalb Award;

Whereas, Joey, 18, participated in the drama club where he starred in numerous plays. He was also active in show choir for four years where he received most valuable singer and many group one first place ratings at district and state ISSMA contests;

Whereas, Joey will attend Purdue University majoring in Agriculture Education. After school, he would like to teach high school agriculture and raise club cattle and hogs, as well as breeding stock; and

Whereas, As an outstanding example of Indiana's young farmer scholars, Joe Martin will travel during his year of service to promote and enhance agriculture and the FFA: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. The Indiana General Assembly congratulates Joey Martin for his election as the 1999-2000 FFA State Treasurer and his outstanding career as a farmer scholar.

SECTION 2. The Principal Clerk of the House of Representatives is directed to transmit a copy of this resolution to Joey Martin.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Wheeler and Weatherwax.

House Concurrent Resolution 62

Representatives Ruppel and Ayres introduced House Concurrent Resolution 62:

A CONCURRENT RESOLUTION honoring Renell Calloway, the 1999-2000 FFA State Reporter.

Whereas, Renell Calloway is the 199-2000 Indiana FFA State Reporter;

Whereas, Renell, daughter of Jerry and Phyllis Calloway, has been selected to serve the over 8900 members of the Indiana FFA Association;

Whereas, Renell of Macy, Indiana, previously served the North Miami FFA as chapter Vice President, as well as the District VI Sentinel,;

Whereas, Renell participated in various leadership contest including Essay, Job Interview, and Female Ambassador. Renell also participated at the state and national levels in both Dairy and Soils Career Development Events and was presented with several

awards, including the Dekalb award and several chapter awards;

Whereas, Renell, 19, was active in her community by serving on the United Way Board of Directors. In high school she enjoyed volleyball, basketball, cheerleading, was a member of the Student Council, National Honor Society, and the Yearbook Staff;

Whereas, Renell will be attending Purdue University to major in Ag Systems Management, and will be supported by scholarships from the Indiana Nut Growers, the Miami County Jr. Miss, Purdue Dairy Contest, and the Brud Calloway Beef Scholarship; and

Whereas, As an outstanding example of Indiana's young farmer scholars, Renell Calloway will travel during her year of service to promote and enhance agriculture education and the FFA: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. The Indiana General Assembly congratulates Renell Calloway for her election as the 1999-2000 State Reporter of the Indiana FFA and her outstanding career as a farmer scholar.

SECTION 2. The Principal Clerk of the House of Representatives is directed to transmit a copy of this resolution to Renell Calloway.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Wheeler and Weatherwax.

House Concurrent Resolution 63

Representatives Ruppel and Ayres introduced House Concurrent Resolution 63:

A CONCURRENT RESOLUTION honoring Lillian Wafford, the 1999-2000 FFA State Sentinel.

Whereas, Lillian Wafford is the 1999-2000 Indiana FFA State Sentinel;

Whereas, Lillian, daughter of Pamela Wafford, has been selected to serve the over 8900 members of the Indiana FFA Association;

Whereas, Lillian, of Indianapolis, Indiana, previously served the Star Academy as the chapter President and Reporter, as well as the District VIII President, Vice President and Sentinel;

Whereas, Lillian participated in different leadership contests including, Parliamentary Procedure, Leadership Ambassador, Extemporaneous Public Speaking, and Quiz Bowl in which she consecutively placed second at the state level;

Whereas, At Emmerich Manual High School, Lillian played on the volleyball team and was presented the Most Valuable Player award and nominated for All-City Honors, as well as lettering in basketball, tennis and softball;

Whereas, Lillian's many achievements include receiving honors as Foreign Language Student of the Year, Academic Honors Diploma, and Who's Who Among American High School Students;

Whereas, Lillian has completed a year of school at DePauw University where she was active in various clubs and associations;

Whereas, After serving her term of office, Lillian will transfer to Purdue University where she will major in Agricultural Sales and Marketing; and

Whereas, As an outstanding example of Indiana's young farmer scholars, Lillian Wafford will travel during her year of service to promote and enhance agriculture education and the FFA: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. The Indiana General Assembly congratulates Lillian Wafford for her election as the 1999-2000 State Sentinel of the Indiana FFA and her outstanding career as a farmer scholar.

SECTION 2. The Principal Clerk of the House of Representatives is directed to transmit a copy of this resolution to Lillian Wafford.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Wheeler and Weatherwax.

House Concurrent Resolution 64

Representatives Ayres, T. Adams, Alderman, Atterholt, Avery, Bailey, Bardon, Bauer, Becker, Behning, Bischoff, Bodiker, Bosma, Bottorff, C. Brown, T. Brown, Buck, Budak, Buell, Burton, Cheney, Cherry, Cochran, Cook, Crawford, Crooks, Crosby, Day, Denbo, Dickinson, Dillon, Dobis, Dumezich, Duncan, Dvorak, Espich, Foley, Frenz, Friend, Frizzell, Fry, GiaQuinta, Goeglein, Gregg, Grubb, Harris, Hasler, Herrell, Hoffman, Kersey, Klinker, Kromkowski, Kruse, Krusan, Kuzman, L. Lawson, Leuck, Liggett, Linder, J. Lutz, Lytle, Mahern, Mangus, Mannweiler, McClain, Mellinger, Mock, Moses, Munson, Murphy, Oxley, Pelath, Pond, Porter, Richardson, Ripley, Robertson, Ruppel, Saunders, Scholer, M. Smith, V. Smith, Steele, Stevenson, Stilwell, Sturtz, Summers, Thompson, Tincher, Torr, Turner, Ulmer, Villalpando, Weinzapfel, Welch, Whetstone, Wolkins, D. Young, M. Young, and Yount introduced House Concurrent Resolution 64:

A CONCURRENT RESOLUTION honoring Jodee Ruppel as the 1999-2000 National FFA Secretary and Recognizing the Week of February 21, 2000, as State FFA Week.

Whereas, The FFA makes a positive difference in the lives of students by developing their potential for premier leadership, personal growth, and career success through agricultural education, as indicated in the FFA Mission Statement;

Whereas, This high school youth organization is one that promotes agriculture and leadership while striving to encompass the continually growing urban agricultural programs and the expanding technologies and facets of agriculture;

Whereas, The FFA and agricultural education provide a strong foundation for the youth of America and the future of food, fiber and natural resources;

Whereas, Agricultural education and the FFA ensure a steady supply of young professionals to meet the growing demands of the science, business and technology of the agricultural field;

Whereas, The FFA motto—"Learning to do, Doing to learn, Learning to live, Living to serve"—gives direction of purpose to those students who take an active role in making the connection to agricultural education;

Whereas, The FFA promotes citizenship, volunteerism, patriotism, and cooperation;

Whereas, The FFA in Indiana, along with its officers, members and advisors, should be commended for assuring that this State continues along the path of agriculture education awareness and the important role it plays in the future of our state and nation;

Whereas, Jodee Ruppel, age 20 of Indiana will serve as the 1999-2000 National FFA Secretary where she will travel more than 100,000 miles across America promoting agriculture education and the FFA; and

Whereas, Jodee will be dedicating a year of her life to the mission of the FFA after which time she will return to her previous responsibilities with the wonderful experience and life lessons which only the FFA can provide: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana General Assembly wishes to recognize the outstanding accomplishments and dedication of Jodee Ruppel along with everyone involved with the FFA and their tremendous work to assure the continuation and growth in agricultural education.

SECTION 2. That the Principal Clerk of the House of Representatives send copies of this resolution to Jodee Ruppel and the state FFA Office.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the

resolution. Senate sponsors: Senators Wheeler and Weatherwax.

House Resolution 42

Representatives Mannweiler and Gregg introduced House Resolution 42:

A HOUSE RESOLUTION supporting civic education and declaring the third Friday of September as America's Legislators Back to School Day.

Whereas, Indiana was created as a representative democracy in which all governmental power is inherent in the people who exercise that power through the legislative, executive and judicial branches; and

Whereas, In recent years, citizen interest in government and knowledge of the political system has declined in part due to a weakening belief in, and a lack of understanding of the virtues and knowledge needed for a successful republican form of government; and

Whereas, Benjamin Rush, signer of the Declaration of Independence stated, "There is but one method of rendering a republican form of government durable, and that is by dissemination the seeds of virtue and knowledge through every part of the state by means of proper places and modes of education and this can be done effectively only by the aid of the legislature"; and

Whereas, The National Conference of State Legislatures (NCSL) has passed a resolution that says that the operations of the state legislatures and the roles of individual legislators are often little understood by citizens, and that public understanding of the institutions and processes of the government is critical to building public trust and confidence; and

Whereas, The NCSL resolution also states that state legislatures need to bring about better understanding of the concept of representative democracy and that education about representative democracy should emphasize the importance of compromise and the difficulty of resolving competing interests in a diverse society; and

Whereas, Civic education is a vital tool to promote greater understanding of the legislative institution and the role of legislators in representative democracy; and

Whereas, NCSL urges the nation's state legislatures to promote civic education about representative democracy; and

Whereas, NCSL has established America's Legislator Back to School Day, a national day on which state legislators across the nation visit schools and classrooms to talk about the legislature and to observe activities in the schools; and

Whereas, Legislators will benefit from interacting with students, teachers and administrators: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives supports civic education to promote greater understanding of the legislative institution and the role of legislators in representative democracy.

SECTION 2. That the Indiana House of Representatives declares that the third Friday in September shall be designated as Indiana's Legislators Back to School Day and urges all members of the legislature to visit schools on that day.

The resolution was read a first time and adopted by voice vote.

House Resolution 43

Representative C. Brown introduced House Resolution 43:

A RESOLUTION urging the establishment of a study committee on murder sentencing.

Whereas, In order to determine whether death sentences have been disproportionately applied and to insure that they are more fairly applied in the future, we must analyze and interpret the information provided by past sentencing: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the legislative council is urged to establish a study committee to study murder sentencing.

SECTION 2. That the committee, if established, must consist of eight (8) members as follows:

- (1) Four (4) members of the house of representatives appointed by the speaker of the house of representatives. Not more than two (2) members appointed under this subdivision may represent the same political party.
- (2) Four (4) members of the senate appointed by the president pro tempore of the senate. Not more than two (2) members appointed under this subdivision may represent the same political party.
- (3) The chairman of the legislative council shall designate one (1) member of the committee to be chairperson of the committee.
- (4) Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on legislative study committees established by the legislative council.

SECTION 3. That the committee, if established, shall do the following:

- (1) Review and analyze all trials that involved murders committed in Indiana after July 1, 1976, and before July 1, 2000. The review and analysis must examine the following in each trial:
 - (A) The facts, including mitigating and aggravating circumstances.
 - (B) The race, gender, religious preference, and economic status of the defendant and murder victim.
 - (C) The result of the judicial proceeding.
 - (D) The sentence imposed on the defendant.
- (2) Make legislative recommendations based on the review and analysis conducted under subdivision (1) if appropriate.
- (3) Study other topics as assigned by the legislative council.

SECTION 4. That the committee, if established, shall have staff and administrative support provided by the legislative services agency.

SECTION 5. That the affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

SECTION 6. That the committee, if established, expires July 2, 2001.

SECTION 7. That the committee, if established, shall operate under the direction of the legislative council and that the committee shall issue a final report before July 1, 2001.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

House Resolution 44

Representatives Klinker and Scholer introduced House Resolution 44:

A RESOLUTION urging the legislative council to require the commission on state tax and financing policy to study the enactment of tax exemptions or tax credits, or both, on raw materials used by Indiana manufacturers.

Whereas, The taxation of raw materials in Indiana has been an issue before the general assembly for several years; and

Whereas, Various bills have been introduced to lessen the burden of taxation on raw materials used by Indiana manufacturers: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the legislative council is urged to require the commission on state tax and financing policy to study the enactment of tax exemptions or tax credits, or both, on raw materials used by Indiana manufacturers.

SECTION 2. That the commission on state tax and financing policy shall operate under the direction of the legislative council and shall issue a final report on its findings when directed by the council to do so.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

House Resolution 45

Representative Kruzan introduced House Resolution 45:

A HOUSE RESOLUTION to honor Diane Masariu Carter on the occasion of her twenty-fifth anniversary with the Indiana House of Representatives.

Whereas, Diane has faithfully served the Indiana House of Representatives as an Administrative Assistant, a Secretary, a Mom-away-from-Mom, a shoulder to lean on, a force to reckon with, and a political advisor to the "stars" for a quarter century;

Whereas, Diane has devoted her life to helping others not only as a public servant in the government sector but also through her volunteer work to prevent AIDS, cancer and a myriad of other afflictions;

Whereas, Diane has followed in the footsteps of her Mom, Betty, to keep the House of Representatives ticking thus continuing the Masariu dynasty in the Indiana General Assembly; and

Whereas, Diane's faith in God and commitment to church and community are who she is: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives extend its heartfelt thanks and congratulations to Diane Masariu Carter for her quarter century of dedicated service to the State of Indiana.

SECTION 2. The Principal Clerk of the House is directed to send a copy of this resolution to Diane Masariu Carter.

The resolution was read a first time and adopted by voice vote.

ENGROSSED SENATE BILLS ON THIRD READING

Engrossed Senate Bill 74

Representative Moses called down Engrossed Senate Bill 74 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 262: yeas 95, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 1:15 p.m. with the Speaker in the Chair.

Representatives Dickinson, Pelath, and Summers, who had been excused, were present. Representative Mangus was excused.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 65

Representative Klinker introduced House Concurrent Resolution 65:

A CONCURRENT RESOLUTION urging the Indiana department of transportation to name the U. S. Highway 231 South bridges over the Wabash River in honor of former Governor Roger D. Branigin.

Whereas, Roger D. Branigin of Lafayette, Indiana, served as governor of Indiana from 1965 through 1968, culminating a colorful and successful career of public service to his community, the state, and the nation; Whereas, Roger Branigin, who was noted for his quick mind, intelligence, and ready wit, was known throughout the state as a successful lawyer, community and business

leader, popular after-dinner speaker, and exceptional student of Indiana history;

Whereas, Roger Douglas Branigin was born July 26, 1902, in Franklin, Indiana, and died November 19, 1975;

Whereas, Roger Branigin was the son of a distinguished lawyer and historian and followed in the family tradition of practicing law;

Whereas, After graduating from Franklin College and Harvard University School of Law, he practiced law for three years in Franklin, Indiana, during which time he served as deputy prosecuting attorney. In 1930, he joined the legal department of the Federal Land Bank and Farm Credit Administration in the Louisville regional office where he rose to the position of general counsel, forming friendships and professional relationships with attorneys and government, business, and community leaders across Indiana;

Whereas, In 1938, Roger Branigin joined Allison E. Stuart in the Stuart Law Firm in Lafayette, one of the state's oldest and most prestigious firms;

Whereas, Soon after the United States entered World War II, Roger Branigin volunteered for military service and was commissioned in the Judge Advocate General's Corps of the Army, where he became chief of the legal division of the Transportation Corps, attaining the rank of lieutenant colonel;

Whereas, After returning from the war, Roger Branigin resumed his law practice in Lafayette, Indiana;

Whereas, Always active in community affairs, Roger Branigin served as president of the Greater Lafayette Chamber of Commerce, president of Harrison Trails Council of the Boy Scouts of America, and trustee of the Tippecanoe County Historical Association;

Whereas, Roger Branigin's interest and achievements in his chosen profession were reflected in his activities in the American Bar Association and his election as president of the Tippecanoe County Bar Association, president of the Indiana State Bar Association, president of the American Law Institute, and Fellow of the American College of Trial Lawyers;

Whereas, A major interest in his life was education and, both publicly and privately, his quiet philanthropy was a continuing source of support for individual students and for schools and institutions of higher learning;

Whereas, Roger Branigin was a member of the board of trustees of Purdue University and a trustee and chairman of the board of Franklin College. One of his most cherished acts as governor was the launching of the Hoosier Scholarship Program to help needy and deserving young men and women attend college;

Whereas, A student of Indiana history and Hoosier folklore, Roger Branigin organized the David Demaree Banta Collection, which contains over 1,000 items and includes manuscripts, periodicals, and books written by Hoosiers. The collection, which he donated to Franklin College, also contains information about the geography, government, and industry of Indiana;

Whereas, In 1951, Roger Branigin was elected to the Indiana Academy, an honor reserved for those outstanding in public service, public education, arts, sciences, literature, and general culture;

Whereas, Roger Branigin had a lifelong interest in politics;

Whereas, Roger Branigin served as chairman of the Democratic state convention in 1948;

Whereas, Following an unsuccessful run for governor in 1956, Roger Branigin was elected governor in 1964 by a record-breaking plurality;

Whereas, Highlights of the Branigin administration include the elimination of the poll tax and personal property tax on household goods and the repeal of the "right-to-work" law, the creation of the department of natural resources, and the construction of the Port of Indiana at Burns Ditch on Lake Michigan;

Whereas, In addition to his service to the state of Indiana as governor, Roger Branigin also served as a trustee of the Lilly

Endowment and was a board member of the Indiana Historical Society, and, in his later years, served as chairman of the Indiana American Revolution Bicentennial Commission;

Whereas, Roger Branigin agreed to enter the 1968 Indiana presidential primary as a stand-in for President Lyndon B. Johnson, but when Johnson decided not to run, he stayed in the race as a favorite son, losing to Robert F. Kennedy but gathering more votes than Senator Eugene McCarthy;

Whereas, Roger Branigin received honorary degrees from a number of colleges and universities, including Indiana University, Butler University, and Franklin College. He was a member of the First Baptist Church of Franklin and of many civic organizations; and

Whereas, Governor Roger Branigin was very interested in the history of our great state. It is, therefore, appropriate that we honor this great man with a permanent remembrance to the contributions he made to the state of Indiana: Therefore,

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That in recognition of the many achievements of Roger D. Branigin and his outstanding service to the nation, to the state of Indiana, and to the greater Lafayette community, the Indiana General Assembly urges the Indiana Department of Transportation to designate the U.S. Highway 231 South bridges over the Wabash River in honor of the former Indiana governor.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to the commissioner of the Indiana Department of Transportation.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Harrison and Altig.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

House Resolution 40

Representatives Gregg, T. Adams, Liggett, Munson, and Saunders introduced House Resolution 40:

A RESOLUTION honoring John E. Worthen, President of Ball State University, Muncie, Indiana, on the occasion of his retirement from the university.

Whereas, Ball State University President John E. Worthen recently announced that he will be stepping down on June 30, 2000, as the eleventh president of the university, a position he has held for 16 years;

Whereas, Under his guidance, the university has become one of the most highly regarded institutions of higher education in the Midwest boasting an outstanding faculty, a beautiful campus, and strong academic programs;

Whereas, One of the major accomplishments of his tenure as president is the emergence of Ball State as a national leader in the use of technology to enhance classroom teaching and learning, an area which is of special interest to President Worthen;

Whereas, President Worthen was the central figure in the successful conclusion of the \$40 million "Wings" capital campaign which exceeded its goal by \$4 million;

Whereas, President Worthen was instrumental in the 10-year reaccreditation of the university by the North Central Association;

Whereas, Under the watchful eye of President Worthen, the university's endowment reached a record \$85 million in 1999;

Whereas, President Worthen currently serves on a number of national, state, and community boards including past chair of the American Association of State Colleges and Universities; a member of the Indiana Business Modernization and Technology Corporation; the Council of Presidents of the Mid-American Conference; Indiana Chamber of Commerce; Indiana Campus

Compact; Indiana Conference of Higher Education; First Merchants Corporation; Ball Memorial Hospital; Indiana Energy, Inc.; and Indiana Gas Co, Inc.;

Whereas, Before coming to Ball State University, Dr. Worthen was president of Indiana University of Pennsylvania, worked for 16 years at the University of Delaware in several administrative positions, including two vice-presidencies during the last 11 years, and served as dean of men at American University in Washington, D.C.;

Whereas, Dr. Worthen, who was born on July 15, 1933, in Carbondale, Illinois, received a B.S. in psychology from Northwestern University, an M.A. in student personnel administration from Columbia University, and an Ed.D. in counseling psychology and administration in higher education from Harvard University;

Whereas, Dr. Worthen was commissioned a lieutenant in the United States Navy and was a carrier pilot and education and legal officer, serving four years;

Whereas, Dr. Worthen and his wife, Sandra, have devoted their lives to Ball State University, the Muncie community, and the state of Indiana during the 16 years of his presidency; Ball State and the entire state have benefitted greatly from their presence; and

Whereas, During his time at Ball State University, Dr. Worthen has created an environment where students of all ages can learn and use the power of education to realize their full potential. Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives wishes to thank Dr. Worthen for the many contributions he has made to Ball State University, the state of Indiana, and the Muncie community and to wish him and his family continued success in the future.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to Dr. Worthen, his wife, Sandra, their children Samantha and Bradley, and the trustees of Ball State University.

The resolution was read a first time and adopted by voice vote.

House Resolution 41

Representatives Gregg, Tinchler, and Kersey introduced House Resolution 41:

A HOUSE RESOLUTION to honor Dr. John W. Moore, President of Indiana State University.

Whereas, John W. Moore, born August 1, 1939 in Bayonne, New Jersey, has over thirty-five years of experience in higher education as a faculty member and an administrator, having served as president of California State University at Stanislaus, Vice President at the University of Vermont and at Old Dominion University, and having served as a faculty member and administrator at Monmouth College, Rutgers University and Pennsylvania State University;

Whereas, John W. Moore has been a distinguished scholar, having been awarded his Bachelor's degree from Rutgers University, his Master's degree from Indiana University, and his Doctor's Degree from Pennsylvania State University, and has further attended post-doctoral programs at Dartmouth, Princeton, and Stanford Universities and the Claremont Graduate School;

Whereas, John W. Moore has performed distinguished service for national programs for higher education, having served in leadership roles with the American Association of State Colleges and Universities, the American Council on Education, the NCAA President's Commission, and as President of the Society of College and University Planning, and has been honored by Pennsylvania State University as an Alumni Fellow;

Whereas, John W. Moore has generously contributed to his state and community affairs, being a member of the Indiana Governor's Education Roundtable, the Governor's Economic Development

Council, the Board of Directors of the Indiana Business Modernization and Technology Corporation, the Public Service Indiana Advisory Board, and having served as Chair of the Indiana Conference on Higher Education and currently chairs the Board of Directors of the Indiana Higher Education Telecommunication System and as the Chair of the Citizens Advisory Council to the Indiana Professional Standards Board, and further serves on the boards of the Union Hospital, The Greater Terre Haute Area Chamber of Commerce, the Alliance for Growth and Progress, Why-Me?, the Swope Art Museum and the United Way of the Wabash Valley and as the 1999 Honorary Chair for the Wabash Valley Race for the Cure;

Whereas, John W. Moore is recognized on a national level for his achievements, having been elected to the Board of Directors of the American Association of State Colleges and Universities in 1995, and serving as a faculty member for the AASCU's New and Experienced Presidents Academies, and has also served as President of the Society for College and University Planning and as a member of its Board of Directors;

Whereas, John W. Moore was appointed as President of Indiana State University in 1992, and serves that great university not only as its chief executive officer but also as a member of the faculty, teaching graduate courses on executive leadership and management through the Schools of Business and Education;

Whereas, John W. Moore's service as President of Indiana State University has resulted in a vastly improved endowment fund, which quadrupled in size to Forty Million Dollars during his tenure through his efforts to encourage private support for Indiana State University;

Whereas, During his tenure as President John W. Moore implemented policies to improve the quality of teaching and learning and improved services to students;

Whereas, During his tenure as President John W. Moore developed for Indiana State University a priority to expand opportunities for women and minorities and established the President's Commission for Ethnic Diversity and implemented policies to encourage the appointment of women and minorities to leadership positions on the faculty and in the administration; and

Whereas, John W. Moore has abided in the sweet communion of marriage with Nancy Ann Moore, and they have three children—Matthew, Sarah and David—all of whom have grown to adulthood;

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. The House of Representatives of the General Assembly of the State of Indiana congratulates Dr. John W. Moore for his outstanding achievements and expresses its appreciation, on behalf of the people of Indiana, for his enduring contributions to our society.

SECTION 2. The Principal Clerk of the House is directed to deliver a copy of this resolution to Dr. John W. Moore.

The resolution was read a first time and adopted by voice vote.

Senate Concurrent Resolution 30

The Speaker handed down Senate Concurrent Resolution 30, sponsored by Representative Kuzman:

A CONCURRENT RESOLUTION to honor Judith Abbott as the Arc of the United States Volunteer of the Year.

Whereas, Judith Abbott is worthy of congratulations for her national recognition as the Arc of the United States Volunteer of the Year;

Whereas, As a major advocate for individuals with mental retardation and related disabilities, Judith Abbott actively serves as President of the Lake County Association for the Retarded, and as the Board Vice President, Northwest Region, of The Arc of Indiana;

Whereas, As the chair of The Arc of Indiana Residential Services

and Convention Planning Committees, Judith led a major initiative with The Arc's "Campaign to End the Waiting List";

Whereas, In support of this campaign, Judith was instrumental in organizing the production of the "Let Us IN!" quilt, a 10 and a half foot by 14 and a half foot work of art displayed in the State House, consisting of 1,173 squares, and decorated with symbols of home, community and family to honor those individuals with severe and profound mental retardation;

Whereas, Judith also heavily promoted the campaign message by developing and displaying a campaign logo for buttons, clips, magnets, billboards, letterhead and a large State House display to spread the message to state legislators;

Whereas, Through the successful publicity of this campaign, The Arc of Indiana drew significant attention within the Indiana State House, achieving its foremost legislative goal in 1999 of securing \$39.3 million to begin to reduce and eliminate Indiana's waiting list for home and community based services; and

Whereas, Judith Abbott truly embodies the spirit of The Arc of the United States Volunteer of The Year Award through her countless hours of volunteer efforts to obtain home and community based services for Indiana citizens with mental retardation, thereby making a tremendous impact on their lives: Therefore,

Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:

SECTION 1. That the people of Indiana have great respect for its citizens who zealously advocate for the protection of other individuals who cannot sufficiently represent their own interests.

SECTION 2. That the Indiana General Assembly hereby honors Judith Abbott for such zealous representation as the Arc of the United States Volunteer of the Year.

SECTION 3. The Secretary of the Senate is directed to transmit a copy of this resolution to Judith Abbott, President, Lake County Association for the Retarded, and to Kim Dodson, Director of Government Relations and Development, Arc of Indiana.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 511

Representative Kruzan called down Engrossed Senate Bill 511 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 511-7)

Mr. Speaker: I move that Engrossed Bill 511 be amended to read as follows:

Page 1, after line 17, begin a new paragraph and insert:
"SECTION 3. IC 13-18-12-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) If a person who operates a publicly or privately owned wastewater treatment plant:**

(1) discovers that a contaminant has entered the wastewater treatment plant that would pose a threat to human health or animal life if the contaminant is not effectively treated before the contaminant is discharged into the waters of Indiana; and
(2) determines the wastewater treatment plant is not able to effectively treat the contaminant;
the person must notify the department of the presence of the contaminant at the wastewater treatment plant not more than twenty-four (24) hours after the person determines the wastewater treatment plant is not able to effectively treat the contaminant.

(b) If the department receives notification from a wastewater treatment plant under subsection (a), the department must:

(1) notify all appropriate state and local government agencies; and

(2) begin notifying the media; not more than forty-eight (48) hours after receiving the notification under subsection (a)."

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of environmental management.

(b) The department shall prepare a report that includes the following:

(1) A comprehensive and detailed report that:

(A) describes plans for restoration of the White River; and
(B) sets forth the department's recommendations for changes in statutes, rules, or procedures and practices of the department to:

(i) reduce the probability of contamination events; and
(ii) improve the timeliness and efficiency of protocols and procedures for notice to affected entities if such an event occurs in the future.

(2) A complete list of all events of contamination of waters of the state after December 31, 1994, in which fish or other aquatic species were killed and in which civil penalties were imposed under IC 13-30-4 (or under the law that governed the imposition of civil penalties before the enactment of IC 13-30-4), including the following:

(A) a description of the contamination event;
(B) the date the contamination event occurred;
(C) the entity on which the civil penalty was imposed; and
(D) the total amount of the civil penalty imposed.

(c) Before September 1, 2000, the department shall deliver the report described in subsection (b) to:

(1) the executive director of the legislative services agency for distribution to members of the legislative council;
(2) the environmental quality service council;
(3) the governor; and
(4) the lieutenant governor.

(d) The environmental quality service council shall:

(1) study the report delivered to it under subsection (c); and
(2) make recommendations to the general assembly before January 1, 2001."

Page 4, after line 39, begin a new paragraph and insert:
"SECTION 13. An emergency is declared for this act."
Renummer all SECTIONS consecutively.

(Reference is to ESB 511 as printed February 17, 2000.)

MELLINGER

Motion prevailed.

HOUSE MOTION (Amendment 511-8)

Mr. Speaker: I move that Engrossed Senate Bill 511 be amended to read as follows:

Page 4, between lines 36 and 37, begin a new paragraph and insert:
"SECTION 9. IC 13-30-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) A person who intentionally, knowingly, or recklessly violates:

(1) environmental management laws;
(2) air pollution control laws;
(3) water pollution control laws;
(4) a rule or standard adopted by one (1) of the boards; or
(5) a determination, a permit, or an order made or issued by the commissioner under environmental management laws or IC 13-7 (before its repeal);

commits a Class D felony.

(b) Notwithstanding IC 35-50-2-7(a), a person who is convicted of a Class D felony under this section (or IC 13-7-13-3(a) before its repeal) may, in addition to the term of imprisonment established under IC 35-50-2-7(a), be punished by:

(1) a fine of not less than ~~two five~~ ~~thousand five hundred~~ dollars (~~\$2,500~~) (**\$5,000**) and not more than ~~twenty-five fifty~~ thousand dollars (~~\$25,000~~) (**\$50,000**) per day of violation; or

(2) if the conviction is for a violation committed after a first conviction of the person under this section (or IC 13-7-13-3(a) before its repeal), a fine of not more than ~~fifty one~~ hundred

thousand dollars (~~\$50,000~~) (**\$100,000**) per day of violation.

SECTION 10. IC 13-30-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) A person who knowingly:

- (1) transports any hazardous waste to a facility that does not have an operation permit or approval to accept the waste;
- (2) disposes, treats, or stores any hazardous waste without having obtained a permit for the waste; or
- (3) makes a false statement or representation in an application, a label, a manifest, a record, a report, a permit, or other document filed, maintained, or used under environmental management laws with regard to hazardous waste;

commits a Class D felony.

(b) Notwithstanding IC 35-50-2-7(a), a person who is convicted of a Class D felony under this section may, in addition to the term of imprisonment established under IC 35-50-2-7(a), be punished by:

- (1) a fine of **not less than two thousand five hundred dollars (\$2,500) and not more than twenty-five thousand dollars (\$25,000) (\$50,000)** for each day of violation; or
- (2) if the conviction is for a violation committed after a first conviction of the person under this section, IC 13-30-6-1, IC 13-30-6-2, or IC 13-7-13-3 (before its repeal), a fine of not more than **fifty one hundred thousand dollars (\$50,000) (\$100,000)** per day of violation.

Renumber all SECTIONS consecutively.

(Reference is to ESB 511 as printed February 17, 2000.)

KRUZAN

Upon request of Representatives Espich and Atterholt, the Chair ordered the roll of the House to be called. Representative Gregg was excused from voting. Roll Call 263: yeas 98, nays 0. Motion prevailed.

HOUSE MOTION
(Amendment 511-2)

Mr. Speaker: I move that Engrossed Senate Bill 511 be amended to read as follows:

Page 1, between lines 5 and 6, begin a new paragraph and insert: "SECTION 1. IC 13-11-2-149.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 149.5. "Outstanding national resource water", for purposes of IC 13-18-3, has the meaning set forth in IC 13-18-3-2(b).

SECTION 2. IC 13-11-2-149.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOW [EFFECTIVE JULY 1, 2000]: Sec. 149.6. "Outstanding state resource water", for purposes of IC 13-18-3, has the meaning set forth in IC 13-18-3-2(c).

SECTION 3. IC 13-11-2-265.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 265.5. "Watershed", for purposes of IC 13-18-3, has the meaning set forth in IC 14-8-2-310."

Page 1, after line 17, begin a new paragraph and insert:

"SECTION 4. IC 13-18-2-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) The department shall prepare a list of impaired waters for the purpose of complying with federal regulations implementing Section 303(d) of the federal Clean Water Act (33 U.S.C. 1313(d)). In determining whether a water body is impaired, the department shall consider all existing and readily available water quality data and related information. The department, before submitting the list to the United States Environmental Protection Agency, shall:

- (1) publish the list in the Indiana Register;
- (2) make the list available for public comment for at least ninety (90) days; and
- (3) present the list to the board.

If the United States Environmental Protection Agency changes the list, the board shall publish the changes in the Indiana Register and conduct a public hearing within ninety (90) days after receipt of the changes.

(b) The board shall adopt by rule the methodology to be used in identifying waters as impaired. The rule shall specify the methodology and criteria for including and removing waters from the list of impaired waters.

(c) The list of impaired waters developed by the department shall contain a priority ranking of waters that are identified as impaired and for which total maximum daily loads will be required, as well as a schedule for the development of required total maximum daily loads. The schedule must be sufficient to ensure that all required total maximum daily loads will be developed using a phased approach within fifteen (15) years of the date the list is approved by the United States Environmental Protection Agency, or by the time prescribed in federal regulations, whichever is sooner.

(d) The department shall make a reasonable and fair allocation among sources when developing total maximum daily loads. The department shall consider public input before making the allocation. At a minimum, the department shall consider:

- (1) the technological feasibility of achieving the allocation;
- (2) the cost and benefit associated with achieving the allocation; and
- (3) any pollutant loading reductions reasonably expected to be achieved as a result of other legally required actions or voluntary measures.

(e) The total maximum daily load implementation plan shall at a minimum provide for follow up monitoring of the impaired water body and any necessary revision of the total maximum daily load allocations in order to assure compliance with water quality standards. To ensure that the water quality standards are attained and maintained, the department shall review the status of the impaired water body in accordance with the monitoring plan as set forth in the total maximum daily load implementation plan.

(f) Before July 1, 2005, the department shall submit a report to the governor, the environmental quality service council, the board, the speaker of the house of representatives, and the president pro tempore of the senate detailing progress made under this section. At a minimum, the report shall evaluate the effectiveness of the program and identify any recommended statutory changes to make the program more efficient, effective, and equitable.

SECTION 5. IC 13-18-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) The board may adopt rules under IC 4-22-2 that are necessary to the implementation of:

- (1) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as in effect January 1, 1988; and
- (2) the federal Safe Drinking Water Act (42 U.S.C. 300f through 300j), as in effect January 1, 1988;

except as provided in IC 14-37.

(b) "Outstanding national resource water" means a water designated as such by the general assembly. The designation shall describe the quality of the outstanding national resource water to serve as the benchmark of the water quality that shall be maintained and protected. Waters that may be considered for designation as outstanding national resource waters include water bodies that are recognized as:

- (1) important because of protection through official action, such as:
 - (A) federal or state law;
 - (B) presidential or secretarial action;
 - (C) international treaty; or
 - (D) interstate compact;

- (2) having exceptional recreational significance;
- (3) having exceptional ecological significance;
- (4) having other special environmental, recreational, or ecological attributes; or
- (5) waters with respect to which designation as an outstanding national resource water is reasonably necessary for protection of other water bodies designated as outstanding national resource waters.

(c) "Outstanding state resource water" means a water designated as such by the board. Waters that may be considered for designation as outstanding state resource waters include water bodies that have unique or special ecological, recreational, or aesthetic significance.

(d) "Watershed" has the meaning set forth in IC 14-8-2-310.

(e) The board may designate a water body as an outstanding state resource water by rule if the board determines that the water body has a unique or special ecological, recreational, or aesthetic

significance.

(f) Before the board may adopt a rule designating a water body as an outstanding state resource water, the board must consider the following:

(1) Economic impact analyses, presented by any interested party, taking into account future population and economic development growth.

(2) The biological criteria scores for the water body, using factors that consider fish communities, macro invertebrate communities, and chemical quality criteria using representative biological data from the water body under consideration.

(3) The level of current urban and agricultural development in the watershed.

(4) Whether the designation of the water body as an outstanding state resource water will have a significant adverse effect on future population, development, and economic growth in the watershed, if the water body is in a watershed that has more than three percent (3%) of its land in urban land uses and serves a municipality with a population greater than five thousand (5,000).

(5) Whether the designation of the water body as an outstanding state resource water is necessary to protect the unique or special ecological, recreational, or aesthetic significance of the water body.

(g) The commissioner shall present a summary of the comments received from the comment period and information that supports a water body designation as an outstanding state resource water to the environmental quality service council not later than one hundred twenty (120) days after the rule regarding the designation is finally adopted by the board.

(h) Notwithstanding any other provision of this section, the designation of an outstanding state resource water in effect on January 1, 2000, remains in effect.

(i) For a water body designated as an outstanding state resource water, the board shall provide by rule procedures that will result in a net improvement in water quality for the outstanding state resource water while also providing for changes and additions to existing permittees' pollutant loadings and allowing for new permits. These procedures must include the following:

(1) A definition of significant lowering of water quality that includes a de minimis quantity of additional pollutant load when a new or increased permit limit is required below which antidegradation implementation procedures do not apply.

(2) Utilization of water quality data that is less than five (5) years old and specific to the outstanding state resource water.

(3) Provisions that:

(A) allow for the use of voluntary water quality projects undertaken in the watershed of the outstanding state resource water that result in demonstrable net environmental improvement in the watershed of the outstanding state resource water;

(B) establish criteria for timely approval of projects described in clause (A);

(C) establish a process for public input in the approval process.

(4) A watershed improvement fee structure to remove requirements for projects described in subdivision (3) upon payment by the permittee of a fee commensurate with the type and quantity of increased pollutant loadings not to exceed five hundred thousand dollars (\$500,000) for any one permit.

(5) Criteria for using the watershed improvement fees to fund watershed projects in the watershed that result in improvement in water quality.

(j) For a water body designated as an outstanding state resource water after June 30, 2000, the board shall provide by rule antidegradation implementation procedures for the water body before it is designated.

(k) A water body may be designated as an outstanding national resource water only by the general assembly after recommendations for designation are made by the department and the environmental

quality service council.

(l) Before recommending the designation of an outstanding national resource water, the department shall provide for an adequate public notice and comment period regarding the designation. The commissioner shall present a summary of the comments and information received during the comment period and the department's recommendation concerning designation to the environmental quality service council not later than ninety (90) days after the end of the comment period. The council shall consider the comments, information, and recommendation received from the department, and shall convey its recommendation concerning designation to the general assembly."

Page 4, between lines 36 and 37, begin a new paragraph and insert: "SECTION 7. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "board" refers to the water pollution control board established under IC 13-18-1.

(b) All waters designated under 327 IAC 2-1.5-19(b) as outstanding state resource waters shall be maintained and protected in their present quality in accordance with 327 IAC 5-2-11.7. Any rule adopted by the board contrary to this standard is void.

(c) Except as provided in subsection (b), 327 IAC 2-1-2 and 327 IAC 2-1-6 are void to the extent that they:

(1) require that an outstanding state resource water must be maintained and protected in its present high quality without degradation; or

(2) provide that a use designation requires that a water must be maintained and protected without degradation.

(d) The board may not:

(1) require that an outstanding state resource water must be maintained and protected in its present high quality without degradation; or

(2) provide that a use designation requires that a water must be maintained and protected without degradation.

(e) Before January 1, 2001, the board shall amend 327 IAC 2-1-2 and 327 IAC 2-1-6 to reflect subsection (c).

(f) This SECTION expires on the earlier of:

(1) the effective date of the rule amendments adopted by the board under subsection (e); or

(2) January 1, 2001.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) Before January 1, 2001, the water pollution control board shall amend 327 IAC 2-1-2, 327 IAC 2-1-6(i), and 327 IAC 2-1.5-4 to reflect SECTION 3 of this act.

(b) This SECTION expires on the earlier of the following:

(1) The effective date of the rule amendment adopted under subsection (a).

(2) January 1, 2001.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of environmental management.

(b) Before July 1, 2001, the department shall develop and maintain a quality assurance program plan and information management system to assess the validity and reliability of the data used in the implementation of IC 13-18-2-3, as added by this act, and IC 13-18-3-2, as amended by this act.

(c) The department:

(1) shall make data from the information management system under subsection (b) available to the public upon request; and

(2) may charge a reasonable fee to persons requesting the data.

(d) The department shall use the data from the information management system under subsection (b) to review the data as of January 1, 2002, supporting:

(1) the listing of impaired waters under IC 13-18-2-3, as added by this act; and

(2) the special designation of waters under IC 13-18-3-2, as amended by this act.

(e) Before September 1, 2000, the department shall appoint a water quality task force to assess the physical, chemical, and biological data collected and used by the department. The water quality task force is a subcommittee of, and shall report to, the department. The department shall study the issues associated with

the implementation of IC 13-18-3-2, including:

- (1) surface water assessment methodologies;
- (2) program resource needs; and
- (3) policy options and rule development recommendations.

(f) The water quality task force appointed under subsection (f) shall include four (4) members of the general assembly, the chairperson of the environmental quality service council, and representatives of the following:

- (1) The academic community in the disciplines of biology, chemistry, and hydrology.
- (2) The department.
- (3) The department of natural resources.
- (4) The United States Geological Survey.
- (5) Private chemical water testing laboratories.
- (6) Industry.
- (7) Agriculture.
- (8) Environmental advocacy organizations.
- (9) General citizens.
- (10) Municipalities.
- (11) The water pollution control board.
- (12) Local public health officials.
- (13) The state department of health.

(g) This SECTION expires October 1, 2002.
SECTION 9. [EFFECTIVE UPON PASSAGE] (a) Until October 1, 2002, the following apply to a water body designated before October 1, 2002, as an exceptional use water:

- (1) The water body is subject to the net water quality improvement provisions of IC 13-18-3-2(i), as added by this act.
- (2) The water body is not subject to a standard of having its water quality maintained and protected without degradation.

(b) Before October 1, 2002, the water pollution control board established under IC 13-18-1 shall:

- (1) determine whether, effective October 1, 2002, to designate as an outstanding state water each water designated before October 1, 2002, as an exceptional use water under 327 IAC 2-1-11; and
- (2) complete rulemaking to make any designation determined under subdivision (1).

(c) This SECTION expires January 1, 2003.

SECTION 10. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "board" refers to the water pollution control board established under IC 13-18-1.

(b) Before October 1, 2003, the board shall establish policies and rules to govern the implementation of total maximum daily load requirements of Section 303(d) of the Clean Water Act, 33 U.S.C. 1313(d).

(c) Before July 1, 2000, the chairperson of the environmental quality service council shall appoint a working group of stakeholders with respect to the implementation of maximum daily load requirements as described in subsection (b). The working group shall consider and make recommendations to the department of environmental management and the board on identification of issues, the development of policy options, policy adoption, and rulemaking. The working group shall include representatives from:

- (1) the general public;
- (2) municipalities;
- (3) industry;
- (4) business;
- (5) agriculture;
- (6) environmental advocacy groups; and
- (7) others with a high level of expertise in the subject area to be considered by the working group.

(d) The working group appointed under subsection (c) shall also include the following members, all appointed by the chairperson of the environmental quality service council:

- (1) a representative of the environmental quality service council;
- (2) a technical secretary; and
- (3) a member of the board.

(e) This SECTION expires October 1, 2003."

Page 4, after line 39 , begin a new paragraph and insert:

"SECTION 9. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to ESB 511 as printed February 17, 2000.)

J. LUTZ

Representative Moses rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into Engrossed Senate Bill 511 a bill pending before the House. The Chair ruled the point was not well taken.

The question then was upon the motion of Representative J. Lutz (511-4). Upon request of Representatives J. Lutz and Bosma, the Chair ordered the roll of the House to be called. Representative Gregg was excused from voting. Roll Call 264: yeas 47, nays 49. Motion failed.

HOUSE MOTION

(Amendment 511-4)

Mr. Speaker: I move that Engrossed Senate Bill 511 be amended to read as follows:

Page 1, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 2. IC 13-13-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. The:

- (1) position of commissioner;
- (2) highest position in each of the offices, except for the offices identified in:

(A) IC 13-13-3-1(1); and

(B) IC 13-13-3-1(3); and the office identified in IC 13-13-3-1(2); and

(3) highest position in each of the divisions, except for the division identified in IC 13-13-3-2(4); IC 13-13-3-2(5); are subject to IC 4-15-1.8."

Renumber all SECTIONS consecutively.

(Reference is to ESB 511 as printed February 17, 2000.)

ESPICH

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Chair ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Espich's amendment (511-4) violates Rule 80. The amendment is germane as the bill deals with environment.

ESPICH

BOSMA

The Speaker Pro Tempore yielded the gavel to the Deputy Speaker Pro Tempore, Representative Crosby.

The question was, Shall the ruling of the Chair be sustained? Representative Gregg was excused from voting. Roll Call 265: yeas 48, nays 46. The ruling of the Chair was sustained.

The Deputy Speaker Pro Tempore yielded the gavel to the Speaker Pro Tempore.

HOUSE MOTION

(Amendment 511-5)

Mr. Speaker: I move that Engrossed Senate Bill 511 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning energy and the environment.

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

"SECTION 1. IC 8-1-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE FEBRUARY 21, 2000 (RETROACTIVE)]:

Chapter 31. Merchant Power Plants

Sec. 1. The definitions in IC 8-1-2-1 apply throughout this chapter.

Sec. 2. As used in this chapter, "department" refers to the department of environmental management established by IC 13-13-1-1.

Sec. 3. As used in this chapter, "merchant power plant" means a

generating facility that produces electricity to be sold solely or primarily to the wholesale electricity market.

Sec. 4. A merchant power plant may not be constructed or operated in Indiana unless all of the following apply:

(1) All of the following have approved construction and operation of the merchant power plant:

(A) The county executive of the county in which the merchant power plant is proposed to be located.

(B) The fiscal body of the county in which the merchant power plant is proposed to be located.

(C) If the merchant power plant is proposed to be located in a municipality, the municipality's legislative body.

(2) Construction and operation of the merchant power plant have received all building and zoning approvals required by the county or municipality in which the merchant power plant is proposed to be located.

(3) The commission has approved construction and operation of the merchant power plant.

(4) The department has issued all necessary environmental permits for construction and operation of the merchant power plant.

(5) A common construction wage is set for construction of the merchant power plant under the procedures described in IC 5-16-7.

Sec. 5. Construction and operation of a merchant power plant is subject to local building and zoning ordinances.

Sec. 6. The commission and the department may not approve, or grant permits for, the operation and construction of a merchant power plant before the requirements of section 4(1) and 4(2) of this chapter have been satisfied.

Sec. 7. For purposes of implementing IC 5-16-7 in the construction of a merchant power plant under this chapter, the following apply:

(1) "Common construction wage" has the meaning set forth in IC 5-16-7-4(1).

(2) The committee required to determine the common construction wage shall be appointed as provided in IC 5-16-7-1(b), except as follows:

(A) The owner of the proposed merchant power plant shall appoint a member of the committee to serve under IC 5-16-7-1(b)(2).

(B) If the merchant power plant is proposed to be located in a municipality, the legislative body of the municipality shall appoint a taxpayer of the municipality to serve as the member of the committee under IC 5-16-7-1(b)(4). If the merchant power plant is not proposed to be located in a municipality, the county fiscal body shall appoint a taxpayer of the county in which the merchant power plant is proposed to be located to serve as the member of the committee under IC 5-16-7-1(b)(4).

(C) The county executive of the county in which the merchant power plant is proposed to be located shall appoint a taxpayer of the county to serve as the member of the committee under IC 5-16-7-1(b)(5).

(3) IC 5-16-7-1(c), IC 5-16-7-1(d), and IC 5-16-7-1(h) apply to setting a common construction wage under this chapter.

(4) The common construction wage must be filed with the county executive of the county in which the merchant power plant is proposed to be constructed not later than two (2) weeks before any contracts for construction of the merchant power plant are awarded.

(5) IC 5-16-7-2 applies to construction of a merchant power plant under this chapter. Notwithstanding IC 5-16-7-2, a contractor on a merchant power plant construction project shall file the wage schedule required by IC 5-16-7-2 with the county executive of the county in which the merchant power plant is being constructed.

(6) A contractor or subcontractor who knowingly fails to pay the common construction wages determined by the committee under this chapter commits a Class B misdemeanor."

"SECTION 10. An emergency is declared for this act".

Renumber all SECTIONS consecutively.

(Reference is to ESB 511 as printed February 17, 2000.)

LIGGETT

Representative Murphy rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Chair ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

Representative Mangus, who had been excused, was present.

Engrossed Senate Bill 353

Representative Kuzman called down Engrossed Senate Bill 353 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 353-1)

Mr. Speaker: I move that Engrossed Senate Bill 353 be amended to read as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 2.

Renumber all SECTIONS consecutively.

(Reference is to ESB 353 as printed February 17, 2000.)

SUMMERS

Upon request of Representatives Alderman and Bosma, the Chair ordered the roll of the House to be called. Roll Call 266: yeas 79, nays 16. Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 515

Representative Leuck called down Engrossed Senate Bill 515 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 52

Representative Liggett called down Engrossed Senate Bill 52 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 52-2)

Mr. Speaker: I move that Engrossed Senate Bill 52 be amended to read as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 22-3-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 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) **No representative of the employer or insurance carrier, including case managers or rehabilitation nurses, may be present at**

any treatment of an injured employee without the express written consent of the employee and the treating medical personnel. At the time of any medical treatment that a representative of the employer wishes to attend, the representative of the employer shall inform the injured employee and treating medical personnel that their written consent is required before the attendance of the employer's representative. The employee's compensation and benefits may not be jeopardized in any way due to the employee's failure or refusal to complete a written waiver allowing the attendance of the employer's representative. The employer's representative may not in any way cause the employee to believe that the employee's compensation and benefits will be terminated if the employee fails or refuses to complete a written waiver allowing the attendance of the employer's representative. The written waivers shall be executed on forms prescribed by the board.

(d) 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 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 injuries by spiritual means or prayer in lieu of the physician or surgeon and other medical services and supplies required under this section.

(e) 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.

(f) 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.

(g) 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 prescribed device or furnish an identical or a reasonably

equivalent replacement.

(h) 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.

(i) After medical treatment has commenced, neither the employer nor the insurance carrier is entitled to transfer or otherwise redirect treatment to other treating medical personnel, except in an emergency situation, unless the employee requests the transfer or redirected treatment, the treating medical personnel requests discontinuance of providing treatment, or there is other good cause. If the employer or insurance carrier wishes to transfer treatment for good cause, a transfer may not be permitted unless and until the board issues an order granting the request. The request shall be made on forms prescribed by the board.

SECTION 2. IC 22-3-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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. **Upon reasonable notice and upon the employee's presentation of a written consent for release of the employee's health records as provided in IC 16-39-1-4, the physician or surgeon shall supply to the employee, the employee's attorney, or another authorized representative, the health records (including x-rays) possessed by the physician or surgeon concerning the employee.** If the employee refuses to submit to or in any way obstructs such examinations, the employee's right to compensation and his 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 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)~~ (f). 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) No representative of the employer or insurance carrier, including case managers or rehabilitation nurses, may be present at any examination of an injured employee without the express written consent of the employee and the treating medical personnel. At the time of any medical examination that a representative of the employer wishes to attend, the representative of the employer shall inform the injured employee and treating medical personnel that their written consent is required before the attendance of the employer's representative. The employee's compensation and benefits may not be jeopardized in any way due to the employee's failure or refusal to complete a written waiver allowing the attendance of the employer's representative. The employer's representative may not in any way cause the employee to believe that the employee's compensation and benefits will be terminated if the employee fails or refuses to complete a written waiver allowing the attendance of the employer's representative. The written waivers shall be executed on forms prescribed by the board.

(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 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 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)~~ (f). 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)~~ (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 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 3. IC 22-3-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 employer's knowledge of the claimed 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 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 benefits into disabled from trade compensation under section 33 of this chapter.**

In all other cases the employer must notify the employee in writing 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 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 4. IC 22-3-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 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 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 (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, for the period stated for such injuries respectively. 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 the injury. 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, 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 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 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 degrees 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 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, 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 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), two thousand fifty dollars (\$2,050) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand seven hundred**

dollars (\$2,700) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand three hundred dollars (\$3,300) per degree; for each degree of permanent impairment above fifty (50), three thousand nine hundred dollars (\$3,900) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, and before July 1, 2002, for each degree of permanent impairment from one (1) to ten (10), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), three thousand seventy-five dollars (\$3,075) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand seven hundred seventy-five dollars (\$3,775) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred twenty-five dollars (\$4,525) per degree.

(9) With respect to injuries occurring on and after July 1, 2002, for each degree of permanent impairment from one (1) to ten (10), two thousand seven hundred forty-seven dollars (\$2,747) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), three thousand four hundred thirty-three dollars (\$3,433) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), four thousand two hundred ninety-two dollars (\$4,292) per degree; for each degree of permanent impairment above fifty (50), five thousand three hundred sixty-five dollars (\$5,365) 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 forty dollars (\$840).

(10) With respect to injuries occurring on or after July 1, 2002, nine hundred eighteen dollars (\$918).

SECTION 5. IC 22-3-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 17. On and after April 1, 1965, and prior to April 1, 1969, when death results from an injury within four hundred fifty (450) weeks, there shall be paid to total dependent of said deceased, as determined by IC 22-3-3-18, 19 and 20, a weekly compensation amounting to sixty percent (60%) of the deceased's average weekly wage, until compensation so paid, when added to any compensation paid to deceased employee, shall equal four hundred fifty (450) weeks, and to partial dependents as hereinafter provided.

On and after April 1, 1969, and prior to July 1, 1971, when death results from an injury within five hundred (500) weeks, there shall be paid to the total dependents of said deceased, as determined by the provisions of IC 22-3-3-18, 19 and 20, weekly compensation amounting to sixty percent (60%) of the deceased's average weekly wage, until the compensation so paid, when added to any compensation paid to the deceased employee, shall equal five hundred (500) weeks, and to partial dependents as hereinafter provided.

On and after July 1, 1971, and prior to July 1, 1974, when death results from an injury within five hundred (500) weeks, there shall be

paid to the total dependents of said deceased, as determined by the provisions of IC 22-3-3-18, 19, and 20, weekly compensation amounting to sixty percent (60%) of the deceased's average weekly wage, not to exceed one hundred dollars (\$100) average weekly wages, until the compensation so paid, when added to any compensation paid to the deceased employee, shall equal five hundred (500) weeks, and to partial dependents as hereinafter provided.

On and after July 1, 1974, and before July 1, 1976, when death results from an injury within five hundred (500) weeks, there shall be paid the total dependents of the deceased, as determined by the provisions of sections 18, 19, and 20 of this chapter, weekly compensation amounting to sixty-six and two-thirds percent (66 2/3%) of the deceased's average weekly wage, not to exceed a maximum of one hundred thirty-five dollars (\$135) average weekly wages, until the compensation so paid, when added to any compensation paid to the deceased employee, shall equal five hundred (500) weeks, and to partial dependents as hereinafter provided. On and after July 1, 1976, when death results from an injury within five hundred (500) weeks, there shall be paid the total dependents of the deceased as determined by sections 18, 19, and 20 of this chapter, weekly compensation amounting to ~~sixty-six and two-thirds percent (66 2/3%)~~ **one hundred percent (100%)** of the deceased's average weekly wage, as defined by IC 22-3-3-22, until the compensation paid, when added to the compensation paid to the deceased employee, equals five hundred (500) weeks, and to partial dependents, as provided in sections 18 and 20 of this chapter.

SECTION 6. IC 22-3-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 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 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 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, 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); ~~and~~

(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 forty dollars (\$840); and

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

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

(A) not more than nine hundred eighteen dollars (\$918); and

(B) 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.

(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 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 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 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) 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 eighty thousand dollars (\$280,000).**
- (6) **With respect to an injury occurring on and after July 1, 2002, three hundred six thousand dollars (\$306,000).**

SECTION 7. IC 22-3-3-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 33. (a) If an employee:**

- (1) **receives an injury that results in a temporary total disability or a permanent partial impairment;**
- (2) **is capable of performing work with limitations or restrictions that prevent the employee from returning to the position the employee held before the employee's injury; and**
- (3) **returns to work;**

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**
- (2) **seventy-eight (78) aggregate weeks.**

(c) **An employee is entitled to receive disabled from trade compensation in a weekly amount equal to STEP FOUR of the**

following formula:

STEP ONE: Determine the employee's average weekly earnings from employment with limitations or restrictions that are entered after the employee's injury.

STEP TWO: Determine the employee's average weekly earnings from employment before the employee's injury.

STEP THREE: Determine the greater of:

- (A) the STEP TWO result minus the STEP ONE result; or
- (B) zero (0).

STEP FOUR: Determine the lesser of:

- (A) the STEP THREE result; or
- (B) with respect to injuries occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars (\$762); or
- (C) with respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred forty dollars (\$840); or
- (D) with respect to injuries occurring on or after July 1, 2002, nine hundred eighteen dollars (\$918).

(d) 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.

(e) 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.

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

SECTION 8. IC 22-3-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 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 employer's knowledge of the claimed disablement 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 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.

In all other cases the employer must notify the employee in writing 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 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, the latter 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 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 average 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 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 ($1/2$) of 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 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.

(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, (10) ten 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 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 (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%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (4), 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), 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 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), two thousand fifty dollars (\$2,050) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand seven hundred dollars (\$2,700) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand

three hundred dollars (\$3,300) per degree; for each degree of permanent impairment above fifty (50), three thousand nine hundred dollars (\$3,900) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, and before July 1, 2002, for each degree of permanent impairment from one (1) to ten (10), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), three thousand seventy-five dollars (\$3,075) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand seven hundred seventy-five dollars (\$3,775) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred twenty-five dollars (\$4,525) per degree.

(9) With respect to injuries occurring on and after July 1, 2002, for each degree of permanent impairment from one (1) to ten (10), two thousand seven hundred forty-seven dollars (\$2,747) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), three thousand four hundred thirty-three dollars (\$3,433) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), four thousand two hundred ninety-two dollars (\$4,292) per degree; for each degree of permanent impairment above fifty (50), five thousand three hundred sixty-five dollars (\$5,365) 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 occurring on or after July 1, 2001, and before July 1, 2002, eight hundred forty dollars (\$840).

(10) With respect to injuries occurring on or after July 1, 2002, nine hundred eighteen dollars (\$918).

(j) If any employee, only partially disabled, refuses employment suitable to his capacity procured for him, he 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 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 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)(2), (g)(3), (g)(6), or (g)(7); 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)(2), (g)(3), (g)(6), or (g)(7), after having sustained another such permanent 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 (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.

SECTION 9. IC 22-3-7-16.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 16.1. (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 an occupational disease becomes permanently and totally impaired 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 the 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 the total permanent impairment out of a special fund known as 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 providing coverage to employers who 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 their 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 who 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 a fund to be known as the occupational diseases second injury fund. The payment shall be in a sum equal to one and one-half percent (1.5%) 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 such payment. If the amount to the credit of the occupational diseases second injury fund as of October 1 of any year exceeds one million dollars (\$1,000,000), the payments of one and one-half percent (1.5%) shall not be assessed or collected during the ensuing year. But when on 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 one and one-half percent (1.5%) 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 that date shall be resumed and paid into the fund.

(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 under this section shall be paid by the worker's compensation board to the treasurer of state, to be deposited in a special account known as the occupational diseases second injury fund. The funds are 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 funds shall be used only for the payment of awards of compensation and expense of medical examinations or treatment made and 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 benefits 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 disablement from occupational disease, 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 (as defined in section 10 of this chapter) 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 worker's compensation board for successive periods not to exceed one hundred fifty (150) weeks each.

SECTION 10. IC 22-3-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 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, ~~said~~ 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 ~~said~~ 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 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.

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

(d) 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 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 disease or injury by spiritual means or prayer in lieu of such physician, services, and supplies.

(e) (e) 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 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) 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 ~~and~~ 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.

(g) 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.

(h) 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.

(i) After medical treatment has commenced, neither the employer nor the insurance carrier is entitled to transfer or otherwise redirect treatment to other treating medical personnel, except in an emergency situation, unless the employee requests the transfer or redirected treatment, the treating medical personnel requests discontinuance of providing treatment, or there is other good cause. If the employer or insurance carrier wishes to transfer treatment for good cause, a transfer may not be permitted unless and until the board issues an order granting the request. The request shall be made on forms prescribed by the board.

SECTION 11. IC 22-3-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 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 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); and

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

(4) with respect to occupational diseases **occurring 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 forty dollars (\$840); and

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

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

(A) not more than nine hundred eighteen dollars (\$918); and

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

(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 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.

(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 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 an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred eighty thousand dollars (\$280,000).

(6) With respect to an injury occurring on and after July 1, 2002, three hundred six thousand dollars (\$306,000).

(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 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.

(w) 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).

SECTION 12. IC 22-3-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 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) (g). 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 the requirements of this subsection apply to all subsequent examinations requested by the employer.

(e) No representative of the employer or insurance carrier, including case managers or rehabilitation nurses, may be present at any examination of an employee with an occupational disease without the express written consent of the employee and the treating medical personnel. At the time of any medical examination that a representative of the employer wishes to attend, the representative of the employer shall inform the employee with an occupational disease and treating medical personnel that their written consent is required before the attendance of the employer's representative. The employee's compensation and benefits may not be jeopardized in any way due to the employee's failure or refusal to complete a written waiver allowing the attendance of the employer's representative. The employer's representative may not in any way cause the employee to believe that the employee's compensation and benefits will be terminated if the employee fails or refuses to complete a written waiver allowing the attendance of the employer's representative. The written waivers shall be executed on forms prescribed by the board.

(f) 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) (g). 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) (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) 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) 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 (f) (g).

(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 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 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.

(Reference is to ESB 52 as printed February 18, 2000.)

LIGGETT

Representative Murphy rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into Engrossed Senate Bill 52 a bill pending before the House. The Chair ruled the point was not well taken.

The question then was on the motion of Representative Liggett (52-2). Upon request of Representatives Liggett and Kruzan, the Chair ordered the roll of the House to be called. Roll Call 267: yeas 67, nays 30. Motion prevailed.

HOUSE MOTION (Amendment 52-1)

Mr. Speaker: I move that Engrossed Senate Bill 52 be amended to read as follows:

Page 63, after line 27, begin a new paragraph and insert:

"SECTION 19. IC 22-4-19-6, AS AMENDED BY P.L.235-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

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

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

administration of this article.

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

- (1) in obedience to an order of a court;
- (2) when authorized by the individual and the employing unit; or
- (3) as provided in this section.

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

(d) The commissioner may release the following information:

- (1) Summary statistical data may be released to the public.
- (2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the department of commerce only for the following purposes:
 - (A) The purpose of conducting a survey.
 - (B) The purpose of aiding the officers or employees of the department of commerce in providing economic development assistance through program development, research, or other methods.
 - (C) Other purposes consistent with the goals of the department of commerce and not inconsistent with those of the department.

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

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

- (A) department of state revenue; or
- (B) state or local law enforcement agencies;

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

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

- (1) if:
 - (A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or
 - (B) there is an agreement that the employer specific information released to the department of commerce or budget agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and
- (2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) An employee:

- (1) of the department who recklessly violates subsection (a), (c), (d), or (e); or
- (2) of any governmental entity listed in subsection (d)(4) of this chapter who recklessly violates subsection (d)(4) of this chapter;

commits a Class B misdemeanor.

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

SECTION 20. IC 22-4-29-3 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2000]: Sec. 3. The commissioner, or the commissioner's duly authorized representative, shall immediately notify the employing unit of the assessment in writing by mail, and, **except as provided in section 4.5 of this chapter**, such assessment shall be final unless the employing unit protests such assessment within fifteen (15) days after the mailing of the notice.

SECTION 21. IC 22-4-29-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4.5. (a) **Upon terms that are just, by motion filed with the commissioner, the liability administrative law judge may relieve an employing unit from a final assessment under section 3 of this chapter for the following reasons:**

- (1) Mistake.
- (2) Surprise.
- (3) Excusable neglect, including, but not limited to, the employing unit showing to the satisfaction of the liability administrative law judge that no return was filed because there was no contribution liability for the period covered by the final assessment.
- (b) **The motion must be filed not later than two (2) years after the date of the mailing of the notice of assessment under section 3 of this chapter.**
- (c) **The motion must contain:**
 - (1) **the grounds for an appeal under this section; and**
 - (2) **a defense to the assessment imposed in section 2 of this chapter.**
- (d) **Upon receipt of an appeal under this section, if a warrant has been filed with the clerk of the circuit court under section 6 of this chapter, the commissioner or the commissioner's representative shall immediately notify the clerk of the circuit court that an appeal has been filed.**

(e) **The filing of a motion stays the following:**

- (1) **Issuance of a warrant by the commissioner or the commissioner's representative under section 6 of this chapter.**
- (2) **Action to be performed by the sheriff or clerk in response to the demands of the warrant under section 6 of this chapter.**
- (3) **Placement of a lien upon the real and personal property of the employing unit under section 6 of this chapter.**
- (4) **Issuance of the warrant to the sheriff of the county by the department under section 7 of this chapter.**
- (f) **Costs due under section 8 of this chapter and amounts retained under section 9 of this chapter may not be returned to an employing unit that is relieved from assessment liability under this section.**
- (g) **At the hearing, the employing unit seeking to set aside the final assessment must show:**
 - (1) **the grounds for relief set forth in subsection (a); and**
 - (2) **the defense to the assessment as required by section 4 of this chapter.**

(h) **Judicial relief of the decision of the liability administrative law judge may be sought under section 5 of this chapter.**

SECTION 22. IC 22-4-32-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. **Except as provided in IC 22-4-29-4.5**, an employing unit shall have fifteen (15) days within which to protest in writing initial determinations of the commissioner with respect to:

- (1) the assessments of contributions, penalties, and interest;
- (2) the transfer of charges from an employer's account;
- (3) merit rate calculations;
- (4) successorships;
- (5) the denial of claims for refunds and adjustments; and
- (6) a protest arising from an initial determination of the director relating to any matter listed in subdivisions (1) through (5).

The fifteen (15) day period shall commence with the day following the day upon which the initial determination or denial of claim for refund or adjustment is mailed to the employing unit.

SECTION 23. IC 22-4-32-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 20. The contributions, penalties, and interest due from any employer under the provisions of this article from the time they shall be due shall be a personal liability of the:

- (1) employer; and

(2) **directors and officers of an employer;**

to and for the benefit of the fund and the employment and training services administration fund.

SECTION 24. IC 22-4-32-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 23. (a) As used in this section:

- (1) "Dissolution" refers to dissolution of a corporation under IC 23-1-45 through IC 23-1-48.
- (2) "Liquidation" means the operation or act of winding up a corporation's affairs, when normal business activities have ceased, by settling its debts and realizing upon and distributing its assets.
- (3) "Withdrawal" refers to the withdrawal of a foreign corporation from Indiana under IC 23-1-50.
- (b) The officers and directors of a corporation effecting dissolution, liquidation, or withdrawal shall do the following:
 - (1) File all necessary documents with the department in a timely manner as required by this article.
 - (2) Make all payments of contributions to the department in a timely manner as required by this article.
 - (3) File with the department a form of notification within thirty (30) days of the adoption of a resolution or plan. The form of notification shall be prescribed by the department and may require information concerning:
 - (A) the corporation's assets;
 - (B) the corporation's liabilities;
 - (C) details of the plan or resolution;
 - (D) the names and addresses of corporate officers, directors, and shareholders;
 - (E) a copy of the minutes of the shareholders' meeting at which the plan or resolution was formally adopted; and
 - (F) such other information as the board may require.

The commissioner may accept, in lieu of the department's form of notification, a copy of Form 966 that the corporation filed with the Internal Revenue Service.

(c) ~~Notwithstanding IC 23-1-35-1(e)~~, unless a clearance is issued under subsection ~~(g)~~ for a period of one ~~(1)~~ year following the filing of the form of notification with the department, ~~(e)~~, the corporate officers and directors remain personally liable ~~subject to IC 23-1-35-1(e)~~ for any acts or omissions that result in the distribution of corporate assets in violation of the interests of the state. ~~An officer or director held liable for an unlawful distribution under this subsection is entitled to contribution:~~

- ~~(1) from every other director who voted for or assented to the distribution, subject to IC 23-1-35-1(e); and~~
- ~~(2) from each shareholder for the amount the shareholder accepted.~~

~~(d) The corporation's officers' and directors' personal liability includes for all contributions, penalties, interest, and fees associated with the collection of the liability due the department. In addition to the penalties provided elsewhere in this article, a penalty of up to thirty percent (30%) of the unpaid contributions may be imposed on the corporate officers and directors for failure to take reasonable steps to set aside corporate assets to meet the liability due the department.~~

~~(e) If the department fails to begin a collection action against a corporate officer or director within one (1) year after the filing of a completed form of notification with the department, the personal liability of the corporate officer or director expires. The filing of a substantially blank form of notification or a form containing misrepresentation of material facts does not constitute filing a form of notification for the purpose of determining the period of personal liability of the officers and directors of the corporation.~~

~~(f) (d) In addition to the remedies contained in this section, the department is entitled to pursue corporate assets that have been distributed to shareholders in violation of the interests of the state. The election to pursue one (1) remedy does not foreclose the state's option to pursue other legal remedies.~~

~~(g) (e) The department may issue a clearance to a corporation effecting dissolution, liquidation, or withdrawal if:~~

- ~~(1) the officers and directors of the corporation have met the~~

requirements of subsection (b); and
 (2) request for the clearance is made in writing by the officers and directors of the corporation within thirty (30) days after the filing of the form of notification with the department.

(h) (f) The issuance of a clearance by the department under subsection (g) (e) releases the officers and directors from personal liability under this section.

SECTION 25. IC 23-1-46-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) A corporation administratively dissolved under section 2 of this chapter may apply to the secretary of state for reinstatement. The application must:

- (1) recite the name of the corporation and the effective date of its administrative dissolution;
- (2) state that the ground or grounds for dissolution either did not exist or have been eliminated;
- (3) state that the corporation's name satisfies the requirements of IC 23-1-23-1; ~~and~~
- (4) contain a certificate from the department of state revenue reciting that all taxes owed by the corporation have been paid; ~~and~~
- (5) contain a certificate from the department of workforce development stating that all employer contributions owed by the corporation under IC 22-4-10 have been paid.**

(b) If the secretary of state determines that the application contains the information required by subsection (a) and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation under IC 23-1-24-4.

(c) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred.

SECTION 26. IC 25-1-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) The bureau and the boards may allow the department of state revenue ~~and the department of workforce development~~ access to the name of each person who:

- (1) is licensed under this chapter; or
- (2) has applied for a license under this chapter.

(b) If the department of state revenue notifies the bureau that a person is on the most recent tax warrant list, the bureau may not issue or renew the person's license until:

- (1) the person provides to the bureau a statement from the department of state revenue that the person's delinquent tax liability has been satisfied; or
- (2) the bureau receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(c) If the department of workforce development notifies the bureau that a person has unpaid contribution liability, the bureau may not issue or renew the person's license until the person provides to the bureau a statement from the department of workforce development that the person's delinquent contribution liability has been satisfied.

SECTION 27. IC 25-1-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) The bureau and the boards may allow the department of state revenue ~~and the department of workforce development~~ access to the name of each person who:

- (1) is licensed under this chapter; or
- (2) has applied for a license under this chapter.

(b) If the department of state revenue notifies the bureau that a person is on the most recent tax warrant list, the bureau may not issue or renew the person's license until:

- (1) the person provides to the bureau a statement from the department of revenue that the person's delinquent tax liability has been satisfied; or
- (2) the bureau receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(c) If the department of workforce development notifies the bureau that a person has unpaid contribution liability, the bureau may not issue or renew the person's license until the person provides to the bureau a statement from the department of workforce development

that the person's delinquent contribution liability has been satisfied."

(Reference is to ESB 52 as printed February 18, 2000.)

AVERY

Motion prevailed.

HOUSE MOTION
 (Amendment 52-4)

Mr. Speaker: I move that Engrossed Senate Bill 52 be amended to read as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 22-3-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 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 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.

In all other cases the employer must notify the employee in writing 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 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 2. IC 22-3-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 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 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 (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, 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 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 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 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 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, 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 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 four dollars (\$1,400) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand one hundred dollars (\$2,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand six hundred dollars (\$3,600) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred dollars (\$4,500) per degree.**

(8) **As used in this subsection, "CPI" refers to the United States Bureau of Labor Statistics Consumer Price Index, all items, all urban consumers, or its successor index. With respect to injuries occurring on and after July 1, 2001, the amount specified for degrees of impairment in this subsection shall be adjusted as determined under STEP SEVEN of the following formula:**

STEP ONE: Determine the amount applicable to fiscal year 2001 under subdivision (7) for the degree of permanent impairment.

STEP TWO: Determine the CPI for calendar year 2000.

STEP THREE: Determine the CPI for the immediately preceding calendar year.

STEP FOUR: Determine the remainder of the STEP THREE amount minus the STEP TWO amount.

STEP FIVE: Divide the STEP FOUR amount by the STEP TWO amount.

STEP SIX: Add one (1) plus the STEP FIVE amount.

STEP SEVEN: Multiply the STEP ONE amount by the STEP SIX amount.

(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 thirty-eight dollars (\$838).**
- (10) With respect to injuries occurring on or after July 1, 2002, nine hundred fourteen dollars (\$914).**

SECTION 3. IC 22-3-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 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 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 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, 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); ~~and~~

(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 thirty-eight dollars (\$838); and
(B) not less than seventy-five dollars (\$75); and

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

(A) not more than nine hundred fourteen dollars (\$914); and
(B) 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.

(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 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 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 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) 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-nine thousand three hundred five dollars (\$279,305).

(6) With respect to an injury occurring on and after July 1, 2002, three hundred four thousand six hundred thirty-six dollars (\$304,636).

SECTION 4. IC 22-3-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 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 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 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.

In all other cases the employer must notify the employee in writing 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 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, 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 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 average 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 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 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.

(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 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, (10) ten 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 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 (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%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (4), 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), 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 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 four hundred dollars (\$1,400) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand one hundred dollars (\$2,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand six hundred dollars (\$3,600) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred dollars (\$4,500) per degree.

(8) As used in this subsection, "CPI" refers to the United States Bureau of Labor Statistics Consumer Price Index, all items, all urban consumers, or its successor index. With respect to disablements occurring on and after July 1, 2001, the amount specified for degrees of impairment in this subsection shall be adjusted as determined under STEP SEVEN of the following formula:

STEP ONE: Determine the amount applicable to fiscal year 2001 under subdivision (7) for the degree of permanent impairment.

STEP TWO: Determine the CPI for calendar year 2000.

STEP THREE: Determine the CPI for the immediately preceding calendar year.

STEP FOUR: Determine the remainder of the STEP THREE amount minus the STEP TWO amount.

STEP FIVE: Divide the STEP FOUR amount by the STEP TWO amount.

STEP SIX: Add one (1) plus the STEP FIVE amount.

STEP SEVEN: Multiply the STEP ONE amount by the STEP SIX amount.

(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 occurring on or after July 1, 2001, and before July 1, 2002, eight hundred thirty-eight dollars (\$838).

(10) With respect to injuries occurring on or after July 1, 2002, nine hundred fourteen dollars (\$914).

(j) If any employee, only partially disabled, refuses employment suitable to his capacity procured for him, he 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 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 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)(2), (g)(3), (g)(6), or (g)(7); 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)(2), (g)(3), (g)(6), or (g)(7), after having sustained another such permanent 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 (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.

SECTION 5. IC 22-3-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 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 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); and

- (B) not less than seventy-five dollars (\$75); ~~and~~
- (4) with respect to occupational diseases ~~occurring~~ **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 thirty-eight dollars (\$838);**

- and**

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

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

- (A) **not more than nine hundred fourteen dollars (\$914); and**

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

(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 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.

(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 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 an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-nine thousand three hundred five dollars (\$279,305).

(6) With respect to an injury occurring on and after July 1, 2002, three hundred four thousand six hundred thirty-six dollars (\$304,636).

(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 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.

(w) 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).

(Reference is to ESB 52 as printed February 18, 2000.)

D. YOUNG

Upon request of Representatives D. Young and Bosma, the Chair ordered the roll of the House to be called. Roll Call 268: yeas 44, nays 53. Motion failed. The bill was ordered engrossed.

The Speaker Pro Tempore yielded the gavel to the Speaker.

Engrossed Senate Bill 62

Representative Kromkowski called down Engrossed Senate Bill 62 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 62-1)

Mr. Speaker: I move that Engrossed Senate Bill 62 be amended to read as follows:

Page 3, between lines 6 and 7, begin a new paragraph and insert: "SECTION 2. IC 5-10-8-8, AS AMENDED BY P.L.233-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) This section applies only to the state and its employees who are not covered by a plan established under section 6 of this chapter.

(b) After June 30, 1986, the state shall provide a group health insurance plan to each retired employee:

(1) whose retirement date is:

(A) after June 29, 1986, for a retired employee who was a member of the field examiners' retirement fund;

(B) after May 31, 1986, for a retired employee who was a member of the Indiana state teachers' retirement fund; or

(C) after June 30, 1986, for a retired employee not covered by clause (A) or (B);

(2) who will have reached fifty-five (55) years of age on or before the employee's retirement date but who will not be eligible on that date for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.;

(3) who will have completed twenty (20) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which shall have been completed immediately preceding the retirement; and

(4) who will have completed at least fifteen (15) years of participation in the retirement plan of which the employee is a member on or before the employee's retirement date.

(c) The state shall provide a group health insurance program to each retired employee:

(1) who is a retired judge;

(2) whose retirement date is after June 30, 1990;

(3) who is at least sixty-two (62) years of age;

- (4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and
- (5) who has at least eight (8) years of service credit as a participant in the Indiana judges' retirement fund, with at least eight (8) years of that service credit completed immediately preceding the judge's retirement.
- (d) The state shall provide a group health insurance program to each retired employee:
- (1) who is a retired participant under the prosecuting attorneys retirement fund;
 - (2) whose retirement date is after January 1, 1990;
 - (3) who is at least sixty-two (62) years of age;
 - (4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and
 - (5) who has at least ten (10) years of service credit as a participant in the prosecuting attorneys retirement fund, with at least ten (10) years of that service credit completed immediately preceding the participant's retirement.
- (e) The state shall ~~make available~~ **provide** a group health insurance program to each former member of the general assembly or surviving spouse of each former member, if the former member:
- (1) is no longer a member of the general assembly;
 - ~~(2) is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq. or, in the case of a surviving spouse, the surviving spouse is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and~~
 - ~~(3) (2) has at least ten (10) six (6) years of service credit as a member in the general assembly.~~

A former member or surviving spouse of a former member who obtains insurance under this section is responsible for paying both the employer and the employee share of the cost of the coverage. **However, when the former member is at least fifty-five (55) years of age, the former member is responsible for paying only the employee share of the cost of the coverage.**

(f) The group health insurance program required under subsections (b) through (e) must be equal to that offered active employees. The retired employee may participate in the group health insurance program if the retired employee pays an amount equal to the employer's and the employee's premium for the group health insurance for an active employee and if the retired employee within ninety (90) days after the employee's retirement date files a written request for insurance coverage with the employer. **A former member of the general assembly who is at least fifty-five (55) years of age may participate in the group health insurance program if the former member pays the employee share of the cost of the coverage. A former member of the general assembly may file a written request for insurance coverage with the employer at any time.** However, the employer may elect to pay any part of the retired employee's premium.

(g) A retired employee's eligibility to continue insurance under this section ends when the employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program. **The eligibility of a former member of the general assembly to continue insurance under this section ends when the employer terminates the health insurance program.** A retired employee who is eligible for insurance coverage under this section may elect to have the employee's spouse covered under the health insurance program at the time the employee retires. **A former member of the general assembly may, at any time, elect to have the former member's spouse covered under the health insurance program if the former member's spouse is covered under the health insurance program on the former member's retirement date.** If a retired employee's spouse pays the amount the retired employee would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired employee. The surviving spouse's eligibility ends on the earliest of the following:

- (1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.
- (2) When the employer terminates the health insurance program.
- (3) Two (2) years after the date of the employee's death.

- (4) The date of the spouse's remarriage.

The eligibility of a surviving spouse of a former member of the general assembly to continue insurance under this section ends when the employer terminates the health insurance program or on the date of the spouse's remarriage.

(h) This subsection does not apply to an employee who is entitled to group insurance coverage under IC 20-6.1-6-1(c). An employee who is on leave without pay is entitled to participate for ninety (90) days in any health insurance program maintained by the employer for active employees if the employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance.

(i) An employer may provide group health insurance for retired employees or their spouses not covered by this section and may provide group health insurance that contains provisions more favorable to retired employees and their spouses than required by this section. A public employer may provide group health insurance to an employee who is on leave without pay for a longer period than required by subsection (h).

SECTION 3. IC 5-10-8-8.1, AS AMENDED BY P.L.233-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8.1. (a) This section applies only to the state and former legislators, instead of section 8 of this chapter.

(b) As used in this section, "legislator" means a member of the general assembly.

(c) After June 30, 1988, the state shall provide to each retired legislator:

- (1) whose retirement date is after June 30, 1988;
- (2) who is not participating in a group health insurance coverage plan:
 - (A) including Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; but
 - (B) not including a group health insurance plan provided by the state or a health insurance plan provided under IC 27-8-10;
- (3) who served as a legislator for at least ~~ten (10) six (6)~~ years; and
- (4) who participated in a group health insurance plan provided by the state on the legislator's retirement date;

a group health insurance program that is equal to that offered active employees.

(d) A retired legislator who qualifies under subsection (c) may participate in the group health insurance program if the retired legislator ~~(1)~~ pays an amount equal to:

- (1) **if the retired legislator is less than fifty-five (55) years of age, the employer's and employee's premium for the group health insurance for an active employee; or**
- (2) **if the retired legislator is at least fifty-five (55) years of age, the employee's premium for the group health insurance for an active employee. and**
- ~~(2) within ninety (90) days after the legislator's retirement date files a written request for insurance coverage with the employer.~~

(e) A retired legislator's eligibility to continue insurance under this section ends when the member becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program.

(f) A retired legislator who is eligible for insurance coverage under this section may elect to have the legislator's spouse covered under the health insurance program at the time the legislator retires. **if the legislator's spouse is covered under the health insurance program on the legislator's retirement date.** If a retired legislator's spouse pays the amount the retired legislator would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired legislator. ~~and is not affected by the retired legislator's eligibility for Medicare.~~ The spouse's eligibility ends on the earliest of the following:

- ~~(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.~~
- ~~(2) (1) When the employer terminates the health insurance program.~~
- ~~(3) (2) The date of the spouse's remarriage.~~

(g) The surviving spouse of a legislator who dies or has died in office may elect to participate in the group health insurance program if all of the following apply:

(1) The deceased legislator would have been eligible to participate in the group health insurance program under this section had the legislator retired on the day of the legislator's death.

(2) The surviving spouse files a written request for insurance coverage with the employer.

(3) The surviving spouse pays an amount equal to the ~~employer's and~~ employee's premium for the group health insurance for an active employee.

(4) The surviving spouse participated in the group health insurance program on the day of the legislator's death.

(h) The eligibility of the surviving spouse of a legislator to purchase group health insurance under subsection (g) ends on the earliest of the following:

(1) When the employer terminates the health insurance program.

(2) The date of the spouse's remarriage.

~~(3) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.~~

SECTION 4. IC 5-10-8-8.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 8.2. (a) The state shall offer coverage under a plan that supplements Medicare (42 U.S.C. 1395 et seq.) to retired members of the general assembly who are covered under Medicare.**

(b) The state shall pay the same percentage of the premium for the coverage offered under subsection (a) that the state pays as the employer share of the premium for coverage of an active employee under the new traditional plan. A retired member of the general assembly who participates in coverage offered under subsection (a) shall pay the same percentage of the premium for the coverage that an active employee pays as the employee share of the premium for the new traditional plan."

Page 58, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 37. [EFFECTIVE JULY 1, 2000] **IC 5-10-8-8 and IC 5-10-8-8.1, both as amended by this act, apply to a group health insurance program that is issued, delivered, amended, or renewed after June 30, 2000."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 62 as printed February 17, 2000.)

FRY

Motion prevailed.

HOUSE MOTION
(Amendment 62-3)

Mr. Speaker: I move that Engrossed Senate Bill 62 be amended to read as follows:

Page 3, between lines 6 and 7, begin a new paragraph and insert: "SECTION 2. IC 2-7-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 3. (a) The activity reports of each lobbyist shall include the following:**

(1) A complete and current statement of the information required to be supplied under IC 2-7-2-3 and IC 2-7-2-4.

(2) Total expenditures on lobbying (prorated, if necessary) broken down to include at least the following categories:

(A) Compensation to others who perform lobbying services.

(B) Reimbursement to others who perform lobbying services.

(C) Receptions.

(D) Entertainment, including meals. However, a function to which the entire general assembly is invited is not lobbying under this article.

(E) Gifts made to an employee of the general assembly or a member of the immediate family of an employee of the general assembly.

(3) A statement of expenditures and gifts that equal one hundred dollars (\$100) or more in one (1) day, or that together total more than five hundred dollars (\$500) during the calendar year, if the expenditures and gifts are made by the registrant or his agent to benefit:

(A) a member of the general assembly;

(B) an officer of the general assembly;

(C) an employee of the general assembly; or

(D) a member of the immediate family of anyone included in clause (A), (B), or (C).

(4) Whenever a lobbyist makes an expenditure that is for the benefit of all of the members of the general assembly on a given occasion, the total amount expended shall be reported, but the lobbyist shall not prorate the expenditure among each member of the general assembly.

(5) A list of the general subject matter of each bill or resolution concerning which a lobbying effort was made within the registration period.

(6) The name of the beneficiary of each expenditure or gift made by the lobbyist or his agent that is required to be reported under subdivision (3).

(7) The name of each member of the general assembly from whom the lobbyist has received an affidavit required under IC 2-2.1-3-3.5.

(b) In the second semiannual report, when total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire reporting year.

(c) An amount reported under this section is not required to include the following:

(1) Overhead costs.

(2) Charges for any of the following:

(A) Postage.

(B) Express mail service.

(C) Stationery.

(D) Facsimile transmissions.

(E) Telephone calls.

(3) Expenditures for the personal services of clerical and other support staff persons who are not lobbyists.

(4) Expenditures for leasing or renting an office.

(5) Expenditures for lodging, meals, and other personal expenses of the lobbyist.

(6) Expenditures for goods and services from a business in which a person describe in subsection (a)(3) has an interest, directly or indirectly, if the expenditure is made from a legislator's retail business in the ordinary course of business at prices that are available to the general public."

Renumber all SECTIONS consecutively.

(Reference is to ESB62 as printed February 17, 2000.)

WHETSTONE

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 73

Representative Gia Quinta called down Engrossed Senate Bill 73 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 76

Representative Moses called down Engrossed Senate Bill 76 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 79

Representative Welch called down Engrossed Senate Bill 79 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 79-2)

Mr. Speaker: I move that Engrossed Senate Bill 79 be amended to read as follows:

Page 2, after line 25, begin a new paragraph and insert: "SECTION 2. IC 12-15-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 4. Medicaid shall be granted to an applicant who is eligible for assistance under IC 12-15-2 and who meets the following requirements:**

(1) Has made an application or a request for Medicaid in the

manner required by the office or for whom an application or a request has been made.

(2) Is a resident of Indiana, including a resident temporarily absent from Indiana, and minor children who are under the care, supervision, and control of a parent or other relative who is a resident of Indiana.

(3) Has not made a transfer of property for the purpose of making the applicant eligible for Medicaid.

(4) Does not have a spouse having sufficient income to furnish medical assistance, or a parent having sufficient income to furnish medical assistance if the applicant is a blind or disabled child and who is **is less than eighteen (18) years of age.**

(A) ~~less than eighteen (18) years of age; or~~

(B) ~~at least eighteen (18) years of age but less than twenty-one (21) years of age and a student regularly attending a:~~

~~(i) school;~~

~~(ii) college;~~

~~(iii) university; or~~

~~(iv) course of vocational or technical training designed to prepare the applicant for gainful employment."~~

(Reference is to ESB 79 as printed February 17, 2000.)

BURTON

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 95

Representative Budak called down Engrossed Senate Bill 95 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 95-1)

Mr. Speaker: I move that Engrossed Senate Bill 95 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete page 2

Page 3, delete lines 1 through 3.

Page 3, line 17, delete "Except as provided in subsection (c), money" and insert "Money".

Page 3, delete lines 25 through 34.

Page 3, line 35, delete "(d)" and insert "(c)".

Renumber all SECTIONS consecutively.

(Reference is to ESB 95 as printed February 18, 2000.)

COCHRAN

Motion prevailed.

HOUSE MOTION

(Amendment 95-2)

Mr. Speaker: I move that Engrossed Senate Bill 95 be amended to read as follows:

Page 3, line 17, delete "Except as provided in subsection (c), money" and insert "Money".

Page 3, line 20, delete "the any" and insert "the"

Page 3, line 22, delete "any candidate or any candidate's" and insert "**the candidate or the candidate's**".

Page 3, line 23, delete "any candidate's or any candidate's" and insert "**the candidate's or the candidate's**".

Page 3, delete lines 25 through 34.

Page 3, line 35, delete "(d)" and insert "(c)".

Renumber all SECTIONS consecutively.

(Reference is to ESB 95 as printed February 18, 2000.)

BUDAK

Upon request of Representatives Budak and Bosma, the Speaker ordered the roll of the House to be called. Representative M. Young was excused from voting. Roll Call 269: yeas 45, nays 48. Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 108

Representative C. Brown called down Engrossed Senate Bill 108 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 108-1)

Mr. Speaker: I move that Engrossed Senate Bill 108 be amended to read as follows:

Page 14, line 21, delete "July" and insert "**October**".
(Reference is to ESB 108 as printed February 18, 2000.)

C. BROWN

Motion prevailed.

HOUSE MOTION

(Amendment 108-2)

Mr. Speaker: I move that Engrossed Senate Bill 108 be amended to read as follows:

Page 8, line 20, delete "Indiana Pediatric Association" and insert "**American Academy of Pediatrics, Indiana Chapter**".

Page 12, line 20, delete "an".

Page 15, line 23, delete "U.S." and insert "**United States**".

(Reference is to ESB 108 as printed February 18, 2000.)

C. BROWN

Motion prevailed.

HOUSE MOTION

(Amendment 108-7)

Mr. Speaker: I move that Engrossed Senate Bill 108 be amended to read as follows:

Page 22, line 25, delete "combined with" and insert "**used to expand the number of Medicaid waivers and provide emergency services and immediate need care to individuals who have applied for but have not yet received a Medicaid waiver.**".

Page 22, delete lines 26 through 30.

(Reference is to ESB 108 as printed February 18, 2000.)

GOEGLEIN

Motion prevailed.

HOUSE MOTION

(Amendment 108-4)

Mr. Speaker: I move that Engrossed Senate Bill 108 be amended to read as follows:

Page 20, line 38, after "IC 12-23-2." insert "**At least fifty percent (50%) of the appropriation must benefit individuals who have a tobacco related disease.**".

(Reference is to ESB 108 as printed February 18, 2000.)

BUCK

Motion failed.

HOUSE MOTION

(Amendment 108-5)

Mr. Speaker: I move that Engrossed Senate Bill 108 be amended to read as follows:

Page 20, line 41, after "disease." insert "**At least fifty percent (50%) of the appropriation must benefit individuals who have a tobacco related disease.**".

(Reference is to ESB 108 as printed February 18, 2000.)

BUCK

Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 114

Representative Kromkowski called down Engrossed Senate Bill 114 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 114-1)

Mr. Speaker: I move that Engrossed Senate Bill 114 be amended to read as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert:
"SECTION 2. IC 3-6-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Each political party whose nominee received at least ten percent (10%) of the votes cast in the state for secretary of state at the last election may have precinct committeemen elected at the same time as a primary election in

accordance with IC 3-10-1-4.5 if provided by the rules of the political party.

(b) A precinct committeeman elected under this section is entitled to appoint and remove a precinct vice committeeman at any time."

Page 7, between lines 4 and 5, begin a new paragraph and insert: "SECTION 18. IC 3-13-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) At a meeting called under section 7 of this chapter, the eligible participants shall:

(1) establish the caucus rules of procedure, except as otherwise provided in this chapter; and

(2) select, by a majority vote of those casting a vote for a candidate, a person to fill the candidate vacancy described in the call for the meeting.

~~(b) Voting by proxy is not allowed:~~ If more than one (1) person seeks to fill the vacancy, the selection shall be conducted by secret ballot.

SECTION 19. IC 3-13-1-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. (a) **Except as provided in this section, voting by proxy is not permitted in a caucus called under section 7 of this chapter.**

(b) A precinct vice committeeman is entitled to participate in a caucus called under section 7 of this chapter and vote as a proxy for the vice committeeman's precinct committeeman if all of the following apply:

(1) The vice committeeman's precinct committeeman is otherwise eligible to participate in the caucus under this chapter.

(2) The vice committeeman's precinct committeeman is not present at the caucus.

(3) The vice committeeman is eligible under this section.

(c) The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus called under section 7 of this chapter and vote the precinct committeeman's proxy, regardless of when the ballot vacancy occurred, if both of the following apply:

(1) The vice committeeman was appointed by the precinct committeeman.

(2) The vice committeeman was the vice committeeman five (5) days before the date of the caucus.

(d) If a vice committeeman is not eligible under subsection (c), the vice committeeman is eligible to participate in a caucus called under section 7 of this chapter and vote the precinct committeeman's proxy only if the vice committeeman was the vice committeeman thirty (30) days before the ballot vacancy occurred."

Page 7, between lines 24 and 25, begin a new paragraph and insert: "SECTION 21. IC 3-13-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A vacancy in a legislative office shall be filled by a caucus comprised of the precinct committeemen from the senate or house district where the vacancy exists who represent the same political party that elected or selected the person who held the vacated seat.

(b) Not later than thirty (30) days after the vacancy occurs (or as provided in subsection (c)), the caucus shall meet and select a person to fill the vacancy by a majority vote of those casting a vote for a candidate, including vice committeemen eligible ~~under proxies filed to vote as a proxy~~ under section 5 of this chapter.

(c) A state chairman may give notice of a caucus before the time specified under subsection (b) if a vacancy will exist because the official has:

(1) submitted a written resignation under IC 5-8-3.5 that has not yet taken effect; or

(2) been elected to another office.

(d) Notwithstanding IC 5-8-4, a person may not withdraw the person's resignation after the resignation has been accepted by the person authorized to accept the resignation less than seventy-two (72) hours before the announced starting time of the caucus under this chapter.

(e) The person selected must reside in the district where the vacancy occurred.

SECTION 22. IC 3-13-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **Subject to subsection (b);**

Except as provided in this section, voting by proxy is not allowed in a caucus meeting held under this chapter.

~~(b) A precinct committeeman may designate a precinct vice committeeman who:~~

(1) is a member of the same political party that elected or selected the person who vacated the office to be filled;

(2) is the vice committeeman for the committeeman's precinct; and

(3) has been a vice committeeman continuously for a period beginning thirty (30) days before the date the vacancy occurred;

as the committeeman's proxy in a caucus meeting. A precinct committeeman who is not eligible to participate in the caucus may designate a precinct vice-committeeman who is eligible to participate under this subsection as the representative of the precinct. To be effective, the designation must be filed with the chairman of the caucus meeting at least seventy-two (72) hours before the meeting. The chairman of the caucus meeting shall read the list of the persons eligible to vote under a proxy in the caucus meeting before any voting occurs. A proxy may not be revoked after it is filed with the chairman of the caucus meeting.

~~(c) If the vacancy to be filled under this chapter resulted from the death of a person holding a legislative office who also served as a precinct committeeman, the vice committeeman for that precinct is eligible to participate in the caucus.~~

(b) A precinct vice committeeman is entitled to participate in a caucus held under this chapter and vote as a proxy for the vice committeeman's precinct committeeman if all of the following apply:

(1) The vice committeeman's precinct committeeman is otherwise eligible to participate in the caucus under this chapter. This subdivision is satisfied if the vacancy to be filled under this chapter resulted from the death of an individual holding a legislative office who also served as a precinct committeeman.

(2) The vice committeeman's precinct committeeman is not present at the caucus.

(3) The vice committeeman is eligible under this section.

(c) The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus held under this chapter and vote the precinct committeeman's proxy, regardless of when the ballot vacancy occurred, if both of the following apply:

(1) The vice committeeman was appointed by the precinct committeeman.

(2) The vice committeeman was the vice committeeman five (5) days before the date of the caucus.

(d) If a vice committeeman is not eligible under subsection (c), the vice committeeman is eligible to participate in a caucus held under this chapter and vote the precinct committeeman's proxy only if the vice committeeman was the vice committeeman thirty (30) days before the ballot vacancy occurred.

~~(e) Voting shall be conducted by secret ballot, and IC 5-14-1.5-3(b) does not apply to this chapter."~~

Page 8, strike lines 12 through 15.

Page 8, between lines 15 and 16, begin a new paragraph and insert: "SECTION 24. IC 3-13-11-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) ~~Subject to subsection (b);~~ **Except as provided in this section, a member of a caucus under this chapter may not vote voting by proxy is not permitted in a caucus held under this chapter.**

~~(b) A precinct committeeman may designate a precinct vice committeeman who:~~

(1) is a member of the same political party that elected or selected the person who vacated the office to be filled;

(2) is the vice committeeman for the committeeman's precinct; and

(3) has been a vice committeeman continuously for a period beginning thirty (30) days before the date the vacancy occurred;

as the committeeman's proxy in a caucus meeting. A precinct committeeman who is not eligible to participate in the caucus may designate a precinct vice committeeman who is eligible to participate

under this subsection as the representative of the precinct.

(c) To be effective, the designation must be filed with the chairman of the caucus meeting at least seventy-two (72) hours before the meeting. The chairman of the caucus meeting shall read the list of persons eligible to vote under a proxy in the caucus meeting before any voting occurs. A proxy may not be revoked after it is filed with the chairman of the caucus meeting.

(b) A precinct vice committeeman is entitled to participate in a caucus held under this chapter and vote as a proxy for the vice committeeman's precinct committeeman if all of the following apply:

(1) The vice committeeman's precinct committeeman is otherwise eligible to participate in the caucus under this chapter. This subdivision is satisfied if the vacancy to be filled under this chapter resulted from the death of an individual holding a local office who also served as a precinct committeeman.

(2) The vice committeeman's precinct committeeman is not present at the caucus.

(3) The vice committeeman is eligible under this section.

(c) The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus held under this chapter and vote the precinct committeeman's proxy, regardless of when the ballot vacancy occurred, if both of the following apply:

(1) The vice committeeman was appointed by the precinct committeeman.

(2) The vice committeeman was the vice committeeman five (5) days before the date of the caucus.

(d) If a vice committeeman is not eligible under subsection (c), the vice committeeman is eligible to participate in a caucus held under this chapter and vote the precinct committeeman's proxy only if the vice committeeman was the vice committeeman thirty (30) days before the ballot vacancy occurred."

Renumber all SECTIONS consecutively.
(Reference is to SB 114 as printed February 17, 2000.)

THOMPSON

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 117

Representative Kromkowski called down Engrossed Senate Bill 117 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 118

Representative Kromkowski called down Engrossed Senate Bill 118 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 118-2)

Mr. Speaker: I move that Engrossed Senate Bill 118 be amended to read as follows:

Page 5, line 23, delete "five (5)" and insert "**three (3)**".
(Reference is to ESB 118 as printed February 17, 2000.)

THOMPSON

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 139

Representative Lytle called down Engrossed Senate Bill 139 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 139-3)

Mr. Speaker: I move that Engrossed Senate Bill 139 be amended to read as follows:

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

"SECTION 1. IC 14-8-2-27.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 27.5. "Bow", for purposes of **IC 14-22-31** and IC 14-22-40, has the meaning set forth in IC 14-22-40-1.

SECTION 2. IC 14-8-2-91.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 91.5. "Firearm", for

purposes of **IC 14-22-31** and IC 14-22-40, has the meaning set forth in IC 14-22-40-3."

Page 2, after line 28, begin a new paragraph and insert:

"SECTION 7. IC 14-22-31-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. Upon receipt of an application, the department shall do the following:

(1) Inspect the following:

(A) The proposed shooting preserve.

(B) The facilities for propagating the game birds, **white tail deer**, or exotic mammals.

(C) The cover.

(D) The capability of the applicant to maintain such an operation.

(2) If found feasible, approve the application and issue a license to the applicant.

SECTION 8. IC 14-22-31-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. A person issued a license under section 4 of this chapter may propagate and offer for hunting the following animals that are captive reared and released:

(1) Pheasant, quail, chukar partridges, properly marked mallard ducks, and other game bird species that the department determines by rule.

(2) Species of exotic mammals that the department determines by rule.

(3) **White tail deer**.

SECTION 9. IC 14-22-31-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) A person may not take game birds, **white tail deer**, and exotic mammals on a shooting preserve unless the person has a hunting license required under this article, except nonresidents of Indiana who must possess a special license to shoot on licensed shooting preserves.

(b) The department:

(1) shall issue special licenses; and

(2) may appoint owners or managers of shooting preserves as agents to sell special licenses.

(c) A special license expires December 31 of the year issued.

(d) The fee for a special license is eight dollars and seventy-five cents (\$8.75). All fees shall be deposited in the fish and wildlife fund.

SECTION 10. IC 14-22-31-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. (a) **Except for white tail deer**, a person may take wild animals from a shooting preserve only during September, October, November, December, January, February, March, or April.

(b) **A person may take white tail deer from a shooting preserve with a bow or a firearm during any season established by the director under IC 14-22-2-6 to take a deer with any of the following:**

(1) **A bow and arrow.**

(2) **A firearm.**

SECTION 11. IC 14-22-31-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. The licensee of a shooting preserve shall issue a bill of sale designating game birds, **white tail deer**, or exotic mammals lawfully taken upon the shooting preserve. The bill of sale must accompany all game birds and exotic mammals removed from the shooting preserve. The licensee shall retain a copy of all bills of sale issued to persons removing game birds, **white tail deer**, or exotic mammals from the shooting preserve. The bills of sale are subject to inspection by the fish and wildlife division at any time."

Renumber all SECTIONS consecutively.

(Reference is to ESB 139 as printed February 17, 2000.)

FRIEND

Motion prevailed.

HOUSE MOTION
(Amendment 139-1)

Mr. Speaker: I move that Engrossed Senate Bill 139 be amended to read as follows:

Page 2, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 5. IC 14-13-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) The commission consists of the following members:

- (1) The executive of Gary.
- (2) The executive of Hammond.
- (3) The executive of East Chicago.
- (4) The executive of Portage.
- (5) The executive of Michigan City.
- (6) The executive of Whiting.
- (7) The director of the department of commerce, who is a nonvoting member.
- (8) The director of the department, who is a nonvoting member.
- (9) Three (3) members of the general assembly, who are nonvoting members appointed under section 5.5 of this chapter.**

(b) A member of the commission may designate an individual to serve on the commission in the member's place.

SECTION 6. IC 14-13-3-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 5.5. (a) The members appointed to the commission from the general assembly are as follows:**

- (1) A member who resides in Lake County.**
- (2) A member who resides in LaPorte County.**
- (3) A member who resides in Porter County.**

(b) Not more than two (2) members appointed under this section may be of:

- (1) the same political party; or**
- (2) the same chamber of the general assembly.**

(c) The governor shall annually make the appointments required under this section.

(d) If a member of the general assembly appointed under this section ceases to be a member of the general assembly, the member also ceases to be a member of the commission, creating a vacancy for the duration of the member's term.

(e) If a vacancy exists under subsection (d), the governor shall appoint a member of the general assembly to fill the vacancy for the duration of the former member's term. A member appointed under this subsection must have the same qualifications as the former member whose position has become vacant.

SECTION 7. IC 14-13-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 6. (a) Except as provided in subsection (c), members of the commission are not entitled to receive from the commission a per diem. However, the members are entitled to receive an amount for mileage or travel.**

(b) Designees:

- (1) of members of the commission; and
- (2) who are not holders of public office;

are entitled to receive from the commission an amount for per diem, mileage, and travel allowance equal to that fixed by the budget agency as payment to all persons entitled to receive those payments from the state.

(c) A member appointed under section 5.5 of this chapter is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) The appointments made by the governor under IC 14-13-3-5.5, as added by this act, shall be made not later than June 30, 2000.**

(b) This SECTION expires July 1, 2000."

Page 2, after line 28 , begin a new paragraph and insert:

SECTION 11. An emergency is declared for this act.

Renumber all SECTIONS consecutively.

(Reference is to ESB139 as printed February 17, 2000.)

AYRES

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 143

Representative T. Adams called down Engrossed Senate Bill 143 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 146

Representative Tincher called down Engrossed Senate Bill 146 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 147

Representative Cook called down Engrossed Senate Bill 147 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 147-2)

Mr. Speaker: I move that Engrossed Senate Bill 147 be amended to read as follows:

Page 2, after line 23, begin a new paragraph and insert:

"SECTION 3. IC 35-49-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 3. A person who knowingly or intentionally:**

- (1) disseminates matter to minors that is harmful to minors;
 - (2) displays matter that is harmful to minors in an area to which minors have visual, auditory, or physical access; ~~unless each minor is accompanied by his parent or guardian;~~
 - (3) sells or displays for sale to any person matter that is harmful to minors within five hundred (500) feet of the nearest property line of a school or church;
 - (4) engages in or conducts a performance before minors that is harmful to minors;
 - (5) engages in or conducts a performance that is harmful to minors in an area to which minors have visual, auditory, or physical access, unless each minor is accompanied by his parent or guardian;
 - (6) misrepresents his age for the purpose of obtaining admission to an area from which minors are restricted because of the display of matter or a performance that is harmful to minors; or
 - (7) misrepresents that he is a parent or guardian of a minor for the purpose of obtaining admission of the minor to an area where minors are being restricted because of display of matter or performance that is harmful to minors;
- commits a Class D felony."

Renumber all SECTIONS consecutively.

(Reference is to ESB 147 as reprinted February 18, 2000.)

V. SMITH

Representative Cook rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

HOUSE MOTION

(Amendment 147-3)

Mr. Speaker: I move that Engrossed Senate Bill 147 be amended to read as follows:

Page 2, line 14, before "from" insert "**amplified by the stimulated emission of radiation that is visible to the human eye or any other electromagnetic radiation**".

(Reference is to ESB147 as reprinted February 18, 2000.)

THOMPSON

Motion prevailed.

HOUSE MOTION

(Amendment 147-1)

Mr. Speaker: I move that Engrossed Senate Bill 147 be amended to read as follows:

Page 2, line 21, delete "from the knife handle".

(Reference is to ESB 147 as reprinted February 18, 2000.)

AVERY

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 157

Representative Leuck called down Engrossed Senate Bill 157 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 157-2)

Mr. Speaker: I move that Engrossed Senate Bill 157 be amended to read as follows:

Page 2, line 6, delete "A" and insert "**The school corporation employing a**".

(Reference is to ESB157 as printed February 18, 2000.)

CERRY

Motion prevailed.

HOUSE MOTION
(Amendment 157-1)

Mr. Speaker: I move that Engrossed Senate Bill 157 be amended to read as follows:

Page 2, line 1, before "transporting" insert "**at the point of departure for**".

(Reference is to ESB157 as printed February 18, 2000.)

CERRY

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 158

Representative Leuck called down Engrossed Senate Bill 158 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 162

Representative Porter called down Engrossed Senate Bill 162 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 171

Representative Bottorff called down Engrossed Senate Bill 171 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 171-1)

Mr. Speaker: I move that Engrossed Senate Bill 171 be amended to read as follows:

Page 1, between lines 5 and 6, begin a new paragraph and insert: "SECTION 2. IC 4-33-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) As used in this section, "goods and services" does not include the following:

- (1) Utilities and taxes.
- (2) Financing costs, mortgages, loans, or other debt.
- (3) Medical insurance.
- (4) Fees and payments to a parent or an affiliated company of the person holding an owner's license, other than fees and payments for goods and services supplied by nonaffiliated persons through an affiliated company for the use or benefit of the person holding the owner's license.
- (5) Rents paid for real property or payments constituting the price of an interest in real property as a result of a real estate transaction.

(b) Notwithstanding any law or rule to the contrary, a person issued an owner's license shall establish goals of expending at least:

- (1) ~~ten~~ **twelve** percent (~~10%~~) (**12%**) of the dollar value of the licensee's contracts for goods and services with minority business enterprises; and
- (2) ~~five~~ **seven** percent (~~5%~~) (**7%**) of the dollar value of the licensee's contracts for goods and services with women's business enterprises.

A person holding an owner's license shall submit annually to the commission a report that includes the total dollar value of contracts awarded for goods or services and the percentage awarded to minority and women's business enterprises.

(c) A person holding an owner's license shall make a good faith effort to meet the requirements of this section and shall annually demonstrate to the commission that an effort was made to meet the requirements.

(d) A person holding an owner's license may fulfill not more than seventy percent (70%) of an obligation under this chapter by

requiring a vendor to set aside a part of a contract for minority or women's business enterprises. Upon request, the licensee shall provide the commission with proof of the amount of the set aside.

SECTION 3. IC 4-33-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. (a) **The commission shall biennially audit each person holding an owner's license to evaluate the person's compliance with the requirements of section 5 of this chapter.**

(b) If the commission determines that the provisions of this chapter relating to expenditures and assignments to minority and women's business enterprises have not been met by a licensee, the commission may suspend, limit, or revoke the owner's license or fine or impose appropriate conditions on the licensee to ensure that the goals for expenditures and assignments to minority and women's business enterprises are met. However, if a determination is made that a person holding an owner's license has failed to demonstrate compliance with this chapter, the person has ninety (90) days from the date of the determination of noncompliance to comply."

Renumber all SECTIONS consecutively.

(Reference is to ESB 171 as printed February 17, 2000.)

MURPHY

Representative Moses rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into Engrossed Senate Bill 171 a bill pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 175

Representative Klinker called down Engrossed Senate Bill 175 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 178

Representative Klinker called down Engrossed Senate Bill 178 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 186

Representative Kuzman called down Engrossed Senate Bill 186 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 186-1)

Mr. Speaker: I move that Engrossed Senate Bill 186 be amended to read as follows:

Page 1, line 14, delete "wine and liquor" and insert "**alcoholic beverage**".

Page 1, line 14, after "sales" insert ", **other than beer sales**".

Page 4, line 31, delete "a bartender" and insert "**an employee**".

Page 4, line 32, delete "bartender violates" and insert "**employee is convicted of a Class B misdemeanor for violating**".

Page 5, line 13, delete "violates" and insert "**is convicted of a Class B misdemeanor for violating**".

Page 5, line 23, delete "violation of" and insert "**Class B misdemeanor for violating**".

Page 5, line 24, delete "shall suspend the" and insert ":".

Page 5, delete lines 25 through 26, begin a new line block indented and insert:

"**(1) shall hold a hearing under section 6 of this chapter; and (2) may suspend the permit of the individual charged with the violation until disposition of the charges.**"

(Reference is to ESB 186 as printed February 17, 2000.)

KUZMAN

Motion prevailed. The bill was ordered engrossed.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:45 p.m. with the Speaker in the Chair.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed House Bills 1008 and 1125 with amendments and the same are herewith returned to the House for concurrence.

CAROLYN J. TINKLE
Secretary of the Senate

ENROLLED ACTS SIGNED

The Speaker announced that he had signed House Enrolled Act 1018 on February 21.

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 187

Representative Bauer called down Engrossed Senate Bill 187 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 187-2)

Mr. Speaker: I move that Engrossed Senate Bill 187 be amended to read as follows:

Page 10, line 41, after "not" delete "the".

Page 13, between lines 2 and 3, begin a new paragraph and insert:
"SECTION 2. IC 6-1.1-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 15. (a) The acquisition and improvement of land for use by the public as an airport **and the maintenance of commercial passenger aircraft** is a municipal purpose regardless of whether the airport **or maintenance facility** is owned or operated by a municipality. The owner of any airport located in this state, who holds a valid and current public airport certificate issued by the Indiana department of transportation, may claim an exemption for only so much of the land as is reasonably necessary to and used for public airport purposes. **A person maintaining commercial passenger aircraft in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) may claim an exemption for commercial passenger aircraft not subject to the aircraft excise tax under IC 6-6-6.5 that is being assessed under this article, if it is located in the county only for the purposes of maintenance.**

(b) The exemption provided by this section is noncumulative and applies only to property that would not otherwise be exempt. Nothing contained in this section applies to or affects any other tax exemption provided by law.

(c) As used in this section, "land used for public airport purposes" includes the following:

- (1) That part of airport land used for the taking off or landing of aircraft, taxiways, runway and taxiway lighting, access roads, auto and aircraft parking areas, and all buildings providing basic facilities for the traveling public.
- (2) Real property owned by the airport owner and used directly for airport operation and maintenance purposes.
- (3) Real property used in providing for the shelter, storage, or care of aircraft, including hangars.
- (4) Housing for weather and signaling equipment, navigational aids, radios, or other electronic equipment.

The term does not include land areas used solely for purposes unrelated to aviation."

Re-number all SECTIONS consecutively.
(Reference is to ESB 187 as printed February 17, 2000.)

BAUER

Motion prevailed.

HOUSE MOTION (Amendment 187-1)

Mr. Speaker: I move that Engrossed Senate Bill 187 be amended to

read as follows:

Page 10, line 41, after "not" delete "the".

Page 20, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 6. IC 6-3-1-3.5, AS AMENDED BY P.L.128-1999, SECTION 1, P.L.238-1999, SECTION 1, P.L.249-1999, SECTION 1, P.L.257-1999, SECTION 1, AND P.L.273-1999, SECTION 51, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 3.5. When used in IC 6-3, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

- (1) Subtract income that is exempt from taxation under IC 6-3 by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States. ~~or for taxes on property levied by any subdivision of any state of the United States.~~

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

- (A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;
- (B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and
- (C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

- (A) ~~one thousand five hundred dollars (\$1,500)~~ *one thousand five hundred dollars (\$1,500)* for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; ~~and before January 1, 2001; and~~
- (B) ~~five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).~~

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

- (A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or
- (B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Internal Revenue Code Section 111 as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1,

1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2, ~~IC 12-10-6-3~~, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) *In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.*

(16) **For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.**

(17) *Subtract an amount equal to the lesser of:*

(A) *two thousand five hundred dollars (\$2,500); or*

(B) *the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.*

(18) **For taxable years beginning after December 31, 1999, subtract an amount equal to the amount of benefits paid on behalf of the taxpayer during the taxable year under a long term care policy that is not tax-qualified under federal law.**

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under IC 6-3 by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States. ~~or for taxes on property levied by any subdivision of any state of the United States.~~

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(c) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) reduced by income that is exempt from taxation under IC 6-3 by the Constitution and statutes of the United States."

Page 21, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)] IC 6-3-1-3.5(a)(18), as added by this act, applies only to taxable years beginning after December 31, 1999."

Renumber all SECTIONS consecutively.

(Reference is to ESB 187 as printed February 17, 2000.)

TORR

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 204

Representative Lytle called down Engrossed Senate Bill 204 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 205

Representative Lytle called down Engrossed Senate Bill 205 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 209

Representative Sturtz called down Engrossed Senate Bill 209 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 209-2)

Mr. Speaker: I move that Engrossed Senate Bill 209 be amended to read as follows:

Page 5, between lines 15 and 16, begin a new paragraph and insert:

"(d) The office shall, after June 30 and before September 15 of each year, report to the regulatory flexibility committee established under IC 8-1-2.6-4 on the following:

(1) **For the state fiscal year ending June 30, 2000, the expenses incurred by the division in establishing the listing.**

(2) **The total amount of fees deposited in the fund during the most recent state fiscal year.**

(3) **The expenses incurred by the office in maintaining and promoting the listing during the most recent state fiscal year.**

(4) **The projected budget required by the office to comply with this chapter during the current fiscal year.**

(5) **Any other expenses incurred by the office in complying with this chapter during the most recent state fiscal year.**

(6) **The total number of subscribers to the listing at the end of the most recent state fiscal year.**

(7) **The number of new subscribers added to the listing during the most recent state fiscal year.**

(8) **The number of subscribers removed from the listing for any reason during the most recent state fiscal year.**

(e) The regulatory flexibility committee shall, before November 1 of each year, issue a report and recommendations to the legislative council concerning the information received under subsection (d)."

(Reference is to SB 209 as printed February 18, 2000.)

J. LUTZ

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 212

Representative Crosby called down Engrossed Senate Bill 212 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 218

Representative Cook called down Engrossed Senate Bill 218 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 218-1)

Mr. Speaker: I move that Engrossed Senate Bill 218 be amended to read as follows:

Page 1, line 13, before "manufacturer" insert "**width of the**".

Page 1, line 14, after "vehicle" insert "**or the motor vehicle providing motive power**".

Page 1, line 17, delete "before the appurtenances were" and insert "."

Page 2, delete line 1.

(Reference is to ESB 218 as printed February 17, 2000.)

COOK

Motion prevailed.

HOUSE MOTION
(Amendment 218-3)

Mr. Speaker: I move that Engrossed Senate Bill 218 be amended to read as follows:

Page 3, after line 27, begin a new paragraph and insert:

"SECTION 5. IC 9-24-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. A learner's permit authorizes the permit holder to operate a motor vehicle, except a motorcycle, upon a public highway under the following conditions:

(1) While the holder is participating in practice driving in an approved driver education course and is accompanied by a certified driver education instructor in the front seat of an automobile equipped with dual controls.

(2) If the learner's permit has been validated and the holder is less than eighteen (18) years of age, the holder may participate in practice driving if the seat beside the holder is occupied by a guardian or relative of the holder who:

(A) is at least twenty-one (21) years of age; and

(B) holds a valid operator's, chauffeur's, or public passenger chauffeur's license.

(3) If the learner's permit has been validated and the holder is at least eighteen (18) years of age, the holder may participate in practice driving if accompanied in the vehicle by an individual who:

(A) is at least twenty-one (21) years of age; and

(B) holds a valid operator's, chauffeur's, or public passenger chauffeur's license.

(4) While:

(A) the holder is enrolled in an approved driver education course;

(B) the holder is participating in practice driving after having commenced an approved driver education course; and

(C) the seat beside the holder is occupied by a parent or guardian of the holder who:

(1) is at least twenty-one (21) years of age; and

(2) holds a valid operator's, chauffeur's, or public passenger chauffeur's license."

Renumber all SECTIONS consecutively.

(Reference is to ESB218 as printed February 17, 2000.)

BURTON

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

HOUSE MOTION
(Amendment 218-4)

Mr. Speaker: I move that Engrossed Senate Bill 218 be amended to read as follows:

Page 3, after line 27, begin a new paragraph and insert:

"SECTION 5. IC 9-27-4-1 IS AMENDED TO READ AS FOLLOWS:

Sec. 1. This chapter does not apply to the following:

(1) A person giving driver training lessons without charge.

(2) Employers maintaining driver training schools without charge for their employees only.

(3) Schools or classes conducted by colleges, universities, and high schools. for regularly enrolled students."

SECTION 6. IC 9-27-4-5.5 IS AMENDED TO READ AS FOLLOWS [JULY 1, 2000]: Sec. 5.5. (a) To receive an instructor's license under subsection (d), an individual must complete at least sixty (60) semester hours at a college. The individual must complete at least twelve (12) semester hours in driver education courses; of which three (3) semester hours must consist of supervised student teaching experience under the direction of an individual who has:

(1) a driver and traffic safety education endorsement issued by the professional standards board established by IC 20-1-1.4; and

(2) at least five (5) years of teaching experience in driver education.

(b) The three (3) semester hours of supervised student teaching experience required under subsection (a) may only be undertaken by

an individual who will be at least twenty-one (21) years of age upon completion and may only be performed at a high school, a commercial driving school, or the college providing the courses for the individual to become an instructor. The remaining nine (9) hours of driver education courses required under subsection (a) must include a combination of theoretical and behind-the-wheel instruction that is consistent with nationally accepted standards in traffic safety.

(c) The driver education semester hours required under subsection (a) do not satisfy the requirements of subsection (d) or (e) unless the driver education curriculum is approved by the commission for higher education.

(d) The bureau shall issue an instructor's license to an individual who satisfies all of the following:

(1) The individual meets the requirements of subsection (a):

(a) To obtain an instructor's license under subsection (d) to teach driver education, an individual must:

(1) have completed at least:

(A) thirty (30) semester hours at a college or university; or

(B) forty-eight (48) continuing education units (CEU);

(2) complete, after satisfying the requirements of subdivision

(1), the training program described in subsection (b); and

(3) satisfy the requirements set out in subsection (e).

(b) An individual seeking to obtain an instructor's license under subsection (d) must complete the following training program:

(1) For a Level One instructor's license under subsection (d)(1), a training program consisting of two (2) courses, including a combination of theoretical and behind-the-wheel instruction that meets or exceeds nationally accepted standards established by the American Driver and Traffic Safety Education Association (ADTSEA).

(2) For Level Two instructor's license under subsection (d)(2), a training program consisting of three (3) courses (the two (2) courses described in subdivision (1) plus a third course), including a combination of theoretical and behind-the-wheel instruction that meets or exceeds nationally accepted standards established by the American Driver and Traffic Safety Education Association (ADTSEA).

(c) Each course required under subsection (b) must be designed to consist of sufficient contact hours to be offered either for:

(1) college or university credit; or

(2) continuing education credits (CEU);

through a sponsoring institution. The courses must be offered through an accredited college or university. All courses must be completed within eighteen (18) months after beginning the training program.

(d) The bureau shall issue the following:

(1) A Level One instructor's license to an individual who completes the first two (2) courses of the training program described in subsection (b)(1). A Level One instructor's license permits the individual to provide the in-vehicle phase of driver education training.

(2) A Level Two instructor's license to an individual who completes all three (3) courses of the training program described in subsection (b)(2). A Level Two instructor's license permits the individual to provide the in-vehicle and classroom phases of driver education training.

(e) To be eligible to obtain an instructor's license under subsection (d), an individual must meet all of the following additional requirements:

(1) The individual does not have more than the maximum number of points for violating traffic laws specified by the bureau by rules adopted under IC 4-22-2.

(2) The individual has a good moral character, physical condition, knowledge of the rules of the road, and work history. The bureau shall adopt rules under IC 4-22-2 that specify the requirements, including requirements about criminal convictions, necessary to satisfy the conditions of this subdivision.

(3) The individual has at least five (5) years of driving experience as a licensed driver.

(e) The bureau shall issue an instructor's license to an individual who:

- (1) during 1995, held an instructor's license;
- (2) meets the requirements of subsection (d)(2) and (d)(3); and
- (3) completes the twelve (12) semester hours of driver education courses required under subsection (a) not later than July 1, 1999.

However, an individual who has acted as an instructor for at least two (2) years before January 1, 1996, is not required to complete the requirements of subdivision (3) in order to receive an instructor's license under this subsection.

(f) The bureau shall issue an instructor's license to an individual who:

- (1) holds a driver and traffic safety education endorsement issued by the professional standards board established under IC 20-1-1.4; and
- (2) meets the requirements of subsection (d)(2) and (d)(3).

(g) Only an individual who holds an instructor's license issued by the bureau under subsection (d)(e), or (f) may act as an instructor.

(g) The bureau shall adopt rules under IC 4-22-2 necessary to carry out this section.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 9-27-4-5.5, as amended by this act, the bureau shall, after June 30, 2000, carry out the duties imposed upon it under IC 9-27-4-5.5, as amended by this act, under interim written guidelines approved by the bureau.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 9-27-4-5.5, as amended by this act.
- (2) July 1, 2001.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 9-27-4-5.5, as amended by this act, the professional standards board shall amend its rules concerning the driver and traffic safety endorsement to reflect the requirements for a Level One and Level Two instructor's license as set forth in IC 9-27-4-5.5, as amended by this act.

(b) This SECTION expires on the earlier of the following:

- (1) The dates rules are adopted under IC 9-27-4-5.5, as amended by this act.
- (2) January 1, 2001.

SECTION 9. An emergency is declared for this act."

Re-number all SECTIONS consecutively.

(Reference is to ESB218 as printed February 17, 2000.)

BURTON

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 222

Representative Welch called down Engrossed Senate Bill 222 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 12

Representative Kuzman called down Engrossed Senate Bill 12 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 227

Representative Dvorak called down Engrossed Senate Bill 227 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 233

Representative Fry called down Engrossed Senate Bill 233 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 233-2)

Mr. Speaker: I move that Engrossed Senate Bill 233 be amended to read as follows:

Page 1, between lines 16 and 17, begin a new line block indented and insert:

"(2) a retailer from selling common fireworks to a person who is at least sixteen (16) years of age;"

Page 1, line 17, strike "(2)" and insert "(3)".

Page 2, line 2, strike "(3)" and insert "(4)".

Page 2, line 6, strike "(4)" and insert "(5)".

Page 2, line 8, strike "(5)" and insert "(6)".

Page 2, line 13, strike "(6)" and insert "(7)".

Page 2, line 35, strike "8".

Page 4, after line 22, begin a new paragraph and insert:

"SECTION 11. IC 22-11-14-8 IS REPEALED [EFFECTIVE JULY 1, 2000]."

(Reference is to ESB 233 a printed February 17, 2000.)

TINCHER

Motion prevailed.

HOUSE MOTION (Amendment 233-1)

Mr. Speaker: I move that Engrossed Senate Bill 233 be amended to read as follows:

Page 3, between lines 5 and 6, begin a new paragraph and insert: "SECTION 6. IC 23-2-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, unless the context otherwise requires:

(a) "Commissioner" means the securities commissioner provided for in IC 23-2-1-15(a); section 15(a) of this chapter.

(b) "Agent" means an individual, other than a broker-dealer, who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. A partner, officer, or director of a broker-dealer or issuer or a person occupying a similar status or performing similar functions is an agent only if the person effects or attempts to effect a purchase or sale of securities in Indiana. "Agent" does not include an individual who represents an issuer in:

- (1) effecting transactions in a security exempted by section 2(a)(1), 2(a)(2), 2(a)(3), 2(a)(6), 2(a)(7), or 2(a)(10) of this chapter;
- (2) effecting transactions exempted by section 2(b) of this chapter;
- (3) effecting transactions with existing employees, partners, or directors of the issuer, if no commission or other remuneration is paid or given directly or indirectly for soliciting a person in Indiana; or
- (4) effecting transactions in Indiana limited to those transactions described in Section 15(h)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o).

(c) "Broker-dealer" means a person engaged in the business of effecting offers, sales, or purchases of securities for the account of others or for the person's own account. "Broker-dealer" does not include:

- (1) an agent;
- (2) an issuer with respect to the offer or sale of the issuer's own securities;
- (3) a bank, savings institution, or trust company; or
- (4) a person who has no place of business in Indiana if the person effects transactions in Indiana exclusively with:

- (i) the issuers of the securities involved in the transactions;
- (ii) other broker-dealers; or
- (iii) banks, savings institutions, trust companies, insurance companies, investment companies (as defined in the Investment Company Act of 1940, as in effect on December 31, 1990), pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, whether or not the offeror or any of the offerees is then present in Indiana.

(d) "Fraud", "fraudulent", "deceit", and "defraud" mean a misrepresentation of a material fact, a promise or representation or prediction not made honestly or in good faith, or the failure to

disclose a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading. This definition does not limit or diminish the full meaning of those terms as applied by or defined in courts of law or equity. These terms are not limited to common law deceit.

(e) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(f) "Issuer" means a person who issues or proposes to issue a security, except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or person performing similar functions or of the fixed, restricted management, or unit type. The term "issuer" means the person or persons performing the acts and assuming the duties of depository or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(g) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(h) "Person" means an individual, a corporation, a limited liability company, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(i)(1) "Sale" or "sell" means a contract of sale of, contract to sell, or disposition of, a security, or interest in a security for value.

(2) "Offer" or "offer to sell" means an attempt or offer to dispose of, or solicitation of an offer to purchase, a security, or interest in a security for value.

(3) "Transaction" and "transactions" include the meanings of "sale", "sell", "offer", "offer to sell", and "purchase".

(4) "Purchase" means an acquisition, direct or indirect, of a security or an interest in a security for value.

(5) A security given or delivered with, or as a bonus on account of, a purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value.

(6) A purported gift of assessable stock is considered to involve an offer and sale.

(7) A sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as a sale or offer of a security that gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(8) The terms defined in this subsection do not include:

(i) a bona fide secured transaction in or loan of outstanding securities;

(ii) a stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by the stockholders for the dividend other than the surrender of a right to a cash or property dividend when each stockholder may elect to take the dividend in cash or property or in stock; or

(iii) an act incident to a judicially approved reorganization in which a security is issued in exchange for one (1) or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash.

(j) "Securities Act of 1933", "Securities Exchange Act of 1934", "Public Utility Holding Company Act of 1935", and "Investment Company Act of 1940" mean the federal statutes of those names, as in effect on December 31, 1990.

(k) "Security" means a note, stock, treasury stock, bond, debenture, evidence of indebtedness, an interest in a limited liability company or limited liability partnership and any class or series of an interest in a limited liability company or limited liability partnership (including any fractional or other interest in an interest in a limited liability company or limited liability partnership), certificate of interest or participation in a profit-sharing agreement, commodity futures contract, option, put, call, privilege, or other right to purchase or sell a commodity futures contract, margin accounts for the purchase of commodities or commodity futures contracts, collateral-trust

certificate, preorganization certificate or subscription, transferable share, investment contract, **viatical settlement contract**, **any fractional or pooled interest in a viatical settlement contract**, voting-trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under the title or lease, an automatic extension or rollover of an existing security, or, in general, an interest or instrument commonly known as a "security", or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant, option, or right to subscribe to or purchase, any of the foregoing. "Security" does not include:

(i) (1) an insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or some other specified period;

(ii) (2) a contract or trust agreement under which money is paid pursuant to a charitable remainder annuity trust or a charitable remainder unitrust (described in Section 664 of the Internal Revenue Code), or a pooled income fund (described in Section 642(c)(5) of the Internal Revenue Code) or an annuity contract under which the purchaser receives a charitable contribution deduction under Section 170 of the Internal Revenue Code; or

(iii) (3) an interest in a limited liability company or limited liability partnership if the person claiming that the interest is not a security can prove that all of the members of the limited liability company or limited liability partnership are actively engaged in the management of the limited liability company or limited liability partnership.

(l) "State" means a state, territory, or possession of the United States, the District of Columbia, and Puerto Rico.

(m) Corporations are "affiliated" during a period of time when either is the owner of shares of the other representing and possessing fifty percent (50%) or more of the total combined voting power of all classes of stock issued by the other corporation and then outstanding and entitled to vote.

(n) "Investment adviser" means a person who holds himself out to be an investment adviser, or who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues and promulgates analyses or reports concerning securities. "Investment adviser" does not include any of the following:

(1) A bank, savings institution, or trust company.

(2) A lawyer, an accountant, an engineer, or a teacher whose performance of these services is solely incidental to the practice of the person's profession.

(3) A broker-dealer or its agent whose performance of these services is solely incidental to the conduct of the broker-dealer's business as a broker-dealer and who receives no special compensation for them.

(4) A publisher of a bona fide newspaper, news column, newsletter, news magazine, or business or financial publication or service, by whatever means communicated, that does not render advice on the specific investment situation of individual clients.

(5) An investment adviser representative.

(6) A person who is an investment adviser to an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(7) A person who is registered as an investment adviser under Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3).

(8) A person who is excluded from the definition of investment adviser under Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2).

(9) Other persons the commissioner may by rule or order designate.

(o) "Transferable share" means a security representing an equity interest in a corporation or business trust, but does not include the shares of open-end investment companies (as defined by the

Investment Company Act of 1940, as in effect on December 31, 1990).

(p) A "qualified transfer agent" means:

- (1) a bank whose deposits are insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation; or
- (2) a person, independent of the issuer, approved by the commissioner by regulation or by individual order in specific cases.

(q) "Investment adviser representative" means a person, except a person in a clerical or ministerial position:

- (1) who is employed by or associated with an investment adviser registered under this chapter; or
- (2) who has a place of business located in Indiana and is employed by or associated with a person required to be registered as an investment adviser under Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3); and
- (3) who:
 - (A) makes recommendations or otherwise renders advice regarding securities;
 - (B) manages accounts or portfolios of clients;
 - (C) determines recommendations or advice that should be given regarding securities;
 - (D) solicits, offers, or negotiates the sale of or sells investment advisory services; or
 - (E) supervises employees who perform a duty described in this subsection.

(r) "Accredited investor" means a person who is within any of the following categories, or who the issuer reasonably believes is within any of the following categories, at the time of the sale of securities to the person:

- (1) A person who meets the definition of "accredited investor" (as defined under the Securities Act of 1933 in 17 CFR 230.215), and in any other rule or regulation modifying the definition adopted by the Securities and Exchange Commission as in effect on December 31, 1990.
- (2) A person to whom an offer or sale may be made without registration pursuant to section 2(b)(8) or 2(b)(9) of this chapter.
- (3) Any other person the commissioner may designate by rule or order.

(s) "Federal covered security" refers to a security described as a covered security in Section 18(b) of the Securities Act of 1933 (15 U.S.C. 77r).

(t) "Viatical settlement contract" means an agreement for the purchase, sale, assignment, transfer, devise, or bequest of a portion of a death benefit or ownership of a life insurance policy or contract for consideration that is less than the expected death benefit of the life insurance policy or contract. The term does not include the following:

- (1) A loan by an insurer under the terms of a life insurance policy, including a loan secured by the cash value of a policy.**
- (2) An agreement with a bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan.**
- (3) The provision of accelerated death benefits by an insurer to an insured under the provisions of a life insurance contract.**
- (4) Agreements between an insurer and a reinsurer.**
- (5) An agreement by a person who enters into not more than one (1) such agreement in any five (5) year period to purchase a life insurance policy or contract for the transfer of a life insurance policy for a value that is less than the expected death benefit."**

Page 3, between lines 26 and 27, begin a new paragraph and insert: "SECTION 8. IC 27-1-12-6IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) No policy of life insurance, other than industrial insurance, group life insurance or reinsurance, bearing a date of issue which is the same as or later than a transition date to be selected by the company pursuant to section 12 of this chapter, such transition date in no event to be later than January 1, 1948, shall be delivered or issued for delivery in this state or issued by a company organized under the laws of this state unless the same shall provide the following:

(1) That all premiums shall be payable in advance, either at the home office of the company, or to an agent of the company, upon delivery of a receipt signed by one (1) or more of the officers who shall be designated in the policy.

(2) For a grace period of not less than thirty (30) days for the payment of every premium after the first premium, which may be subject to an interest charge, during which period the insurance shall continue in force; provided, that if the insured shall die within such period of grace the unpaid premium for the current policy year may be deducted in any settlement under the policy.

(3) That the policy, together with the application therefor, a copy of which application shall be attached to the policy and made a part thereof, shall constitute the entire contract between the parties and shall:

(A) except as provided in clause (B), be incontestable after it shall have been in force during the lifetime of the insured for two (2) years from its date, or, at the option of the company after it shall have been in force for two (2) years from its date;

and

(B) in the event of fraud in connection with an application for life insurance benefits under a policy that is part of a viatical settlement contract (as defined in IC 27-8-19.8-6), be incontestable after the policy has been in force during the lifetime of the insured for six (6) years after the date of issue, or, at the option of the company after the policy has been in force for six (6) years after the date of issue;

except for nonpayment of premiums, and except for violation of the conditions of the policy relating to naval and military service in time of war, and at the option of the company provisions relative to benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident may also be excepted.

(4) That if the age of the insured and/or beneficiary, if that age enters into the determination of the premiums charged or benefits promised, has been misstated, the amount payable under the policy shall be such as the premium would have purchased at the correct age of the insured and/or beneficiary.

(5) That all statements made by the insured in the application shall, in the absence of fraud, be deemed representations and not warranties.

(6) That, in the case of participating policies, the policy shall participate in the surplus of the company as apportioned by the board of directors of the company, and that, beginning not later than the end of the fifth policy year, the company will determine and account for the portion of the divisible surplus so ascertained accruing on the policy, and that the owner of the policy shall have the right to have the current dividends arising from such participation paid in cash, and that at periods of not more than five (5) years, such accounting and payment at the option of the policyholder shall be had. The owner of the policy may elect to take any of the other dividend options in the policy. If the owner of the policy shall not elect any of the other dividend options provided in the policy, the apportioned dividends shall be held to the credit of the policy and be payable in cash at maturity of the policy or be withdrawable in cash at any anniversary of its date; provided, however, that if the policy shall contain a provision for an apportionment of the surplus at the end of the first policy year and annually thereafter, then and in that event, said policy may provide that each dividend shall be paid subject to the payment of the premium of the next ensuing year.

(7) Nonforfeiture provisions in accordance with the requirements of section 7 of this chapter.

(8) That the company, at any time while the policy is in force, will loan, on the execution of a proper assignment of the policy, and on the sole security thereof, at a specified rate of interest (payable in advance if the company so elects), a sum, which, together with the sum of:

(A) previously existing indebtedness, if any, including interest thereon to the end of the current policy year; and

(B) interest to the end of the current policy year on the amount newly loaned;

is equal to or, at the option of the insured, less than the cash surrender value at the end of the current policy year as provided for by the policy in accordance with the terms of section 7 of this chapter; provided, that the company may, as a condition precedent to the making of such loan, and at its own option, require the payment of the unpaid balance, if any, of the premium or premiums for the current policy year, and may require the payment of interest in advance on the total loan to the end of the current policy year. The policy may provide that, if interest on the loan is not paid when due, it shall be added to the existing loan and become a part thereof and bear interest at the same rate as the loan. It shall further be stipulated in the policy that failure to repay any such loan or pay interest thereon shall not void the policy unless such total indebtedness to the company shall equal or exceed such cash surrender value at the time of such failure, nor until thirty (30) days after notice shall have been mailed by the company to the last known address of the insured and to the assignee, if any, if such assignee has notified the company of his address. No condition other than as provided in this subdivision shall be exacted as prerequisite to any such loan. The company shall reserve the right to defer the granting of any loan, except when made to pay premiums on a policy or policies issued by it, for six (6) months after application therefor is made. The provisions of this subdivision shall not be required in term policies nor shall they apply to paid-up insurance issued or granted in exchange for lapsed or surrendered policies.

(9) That, should there have been default in premium payment and the value of the policy applied to the extension of the insurance, and such insurance be in force and the original policy not surrendered to the company and canceled, the policy may be reinstated within three (3) years from the due date of the premium in default, upon evidence of insurability satisfactory to the company and payment of arrears of premiums with interest.

(10) That when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death and of the interest of the claimant and not later than two (2) months after receipt of such proof.

(11) A title on the face and on the back of the policy describing the same.

(b) Any of the provisions of subsection (a) not applicable to single premium policies shall to that extent not be incorporated therein. The provisions of subsection (a) shall not apply to policies issued on substandard, underaverage, or impaired risks. Any policy may be issued or delivered in this state which in the opinion of the department contains provisions on any one (1) or more of the several requirements of subsection (a) more favorable to the policyholder than those required in subsection (a).

SECTION 9. IC 27-1-12-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 41. (a) A policy of group life insurance may not be delivered in Indiana unless it contains in substance:

- (1) the provisions described in subsection (b); or
- (2) provisions that, in the opinion of the commissioner, are:
 - (A) more favorable to the persons insured; or
 - (B) at least as favorable to the persons insured and more favorable to the policyholder;

than the provisions set forth in subsection (b).

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

- (1) A provision that the policyholder is entitled to a grace period of thirty-one (31) days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder has given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder is liable to the insurer for the payment of a pro rata premium for the time the policy was in force during the grace period.

(2) A provision that the validity of the policy may not be contested ~~except for nonpayment of premiums, after the policy has been in force for two (2) years after its date of issue and that no statement made by a person insured under the policy relating to the person's insurability may be used in contesting the validity of the insurance with respect to which the statement was made; unless: except as provided in clause (A), (B), (C), or (D):~~

(A) the insurance has not been in force for a period of two (2) years or longer during the person's lifetime; or ~~The validity of a policy may be contested at any time for nonpayment of premiums.~~

(B) the statement is contained in a written instrument signed by the insured person. ~~The validity of a policy may be contested based on a statement made by a person insured under the policy that relates to the person's insurability if:~~

(i) the statement is set forth in a written instrument signed by the insured; and

(ii) the policy has not been in force for two (2) years after the date of issue.

(C) ~~The validity of a policy may be contested based on a statement made by a person insured under the policy that relates to the person's insurability if:~~

(i) the policy has not been in force for at least two (2) years during the person's lifetime; and

(ii) the policy has not been in force for two (2) years after its date of issue.

(D) ~~The validity of a policy that is part of a viatical settlement contract (as defined in IC 27-8-19.8-6) may be contested on the grounds of fraud in connection with an application for life insurance benefits under the policy until the policy has been in force for six (6) years after the date of issue.~~

However, a provision under this subdivision may not preclude the assertion at any time of defenses based upon provisions in the policy that relate to eligibility for coverage.

(3) A provision that a copy of the application, if any, of the policyholder must be attached to the policy when issued, that all statements made by the policyholder or by the persons insured are to be deemed representations and not warranties, and that no statement made by any person insured may be used in any contest unless a copy of the instrument containing the statement is or has been furnished to the insured person or, in the event of death or incapacity of the insured person, to the insured person's beneficiary or personal representative.

(4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of the person's coverage.

(5) A provision specifying an equitable adjustment of premiums, benefits, or both to be made in the event the age of a person insured has been misstated. A provision under this subdivision must contain a clear statement of the method of adjustment to be made.

(6) A provision that any sum becoming due by reason of the death of the person insured must be payable to the beneficiary designated by the person insured. However, if a policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the policy terms, subject to the provisions of the policy in the event there is no designated beneficiary, as to all or any part of the sum, living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of the sum not exceeding two thousand dollars (\$2,000) to any person appearing to the insurer to be equitably entitled to that payment by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

(7) A provision that the insurer will issue to the policyholder, for delivery to each person insured, a certificate setting forth a statement that:

- (A) explains the insurance protection to which the person insured is entitled;
- (B) indicates to whom the insurance benefits are payable;
- (C) explains any dependent's coverage included in the certificate; and
- (D) sets forth the rights and conditions that apply to the person under subdivisions (8), (9), (10), and (11).

(8) A provision that if the insurance, or any portion of it, on a person covered under the policy, or on the dependent of a person covered, ceases because of termination of employment or termination of membership in the class or classes eligible for coverage under the policy, the person or dependent is entitled, without evidence of insurability, to an individual policy of life insurance issued to the person or dependent by the insurer without disability or other supplementary benefits, provided that an application for the individual policy is made and that the first premium is paid to the insurer within thirty-one (31) days after the termination, and provided further that:

- (A) the individual policy must, at the option of the person or dependent, be on any one (1) of the forms then customarily issued by the insurer at the age and for the amount applied for, except that the group policy may exclude the option to elect term insurance;
- (B) the individual policy must be in an amount not in excess of the amount of life insurance that ceases because of the termination, less the amount of any life insurance for which the person or dependent becomes eligible under the same policy or any other group policy within thirty-one (31) days after the termination (however, any amount of insurance that has matured on or before the date of the termination as an endowment payable to the person insured, whether in one (1) sum, in installments, or in the form of an annuity, may not, for the purposes of this clause, be included in the amount of insurance that is considered to cease because of the termination); and
- (C) the premium on the individual policy must be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which the person or dependent then belongs, and to the individual age attained by the person or dependent on the effective date of the individual policy.

Subject to the conditions set forth in this subdivision, the conversion privilege created by this subdivision must be available to a surviving dependent of a person covered under a group policy, with respect to the coverage under the group policy that terminates by reason of the death of the person covered, and to the dependent of an employee or member after termination of the coverage of the dependent because the dependent ceases to be a qualified family member under the group policy, while the employee or member remains insured under the group policy.

(9) A provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured under the policy at the date of the termination whose insurance terminates, including the insured dependent of a covered person, and who has been so insured for at least five (5) years before the termination date, is entitled to have issued by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided in subdivision (8), except that the group policy may provide that the amount of the individual policy may not exceed the lesser of:

- (A) the amount of the person's life insurance protection that is ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which the person is eligible or becomes eligible under a group policy issued or reinstated by the same insurer or another insurer within thirty-one (31) days after the termination; or
- (B) ten thousand dollars (\$10,000).

(10) A provision that if a person insured under the group policy, or the insured dependent of a covered person, dies during the

period within which the covered person or dependent would have been entitled to have an individual policy issued under subdivision (8) or (9) or before such an individual policy becomes effective, the amount of life insurance that the covered person or dependent would have been entitled to have issued under an individual policy is payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium for the individual policy has been made.

(11) If active employment is a condition of insurance, a provision that an insured may continue coverage during the insured's total disability by timely payment to the policyholder of that portion, if any, of the premium that would have been required for the insured had total disability not occurred. The continuation of coverage under this subdivision on a premium paying basis must extend for a period of six (6) months from the date on which the total disability started, but not beyond the earlier of:

- (A) the date of approval by the insurer of continuation of the coverage under any disability provision that the group insurance policy may contain; or
- (B) the date of discontinuance of the group insurance policy.

(12) In the case of a policy insuring the lives of debtors, a provision that the insurer will furnish to the policyholder, for delivery to each debtor insured under the policy, a certificate of insurance describing the coverage and specifying that the death benefit will first be applied to reduce or extinguish the indebtedness.

(c) Subsections (b)(6) through (b)(11) do not apply to policies insuring the lives of debtors. The standard provisions required under ~~IC 27-1-12~~ **this chapter** for individual life insurance policies do not apply to group life insurance policies.

(d) If a group life insurance policy is on a plan of insurance other than the group plan, it must contain a nonforfeiture provision that, in the opinion of the commissioner, is equitable to the insured persons and to the policyholder. However, group life insurance policies need not contain the same nonforfeiture provisions as are required for individual life insurance policies under ~~IC 27-1-12~~ **this chapter.**"

Page 3, between lines 34 and 35, begin a new paragraph and insert:

SECTION 11. IC 27-8-19.8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. As used in this chapter, "viatical settlement contract" means ~~a written agreement between a viatical settlement provider and a viator under the terms of which the viatical settlement provider gives anything of value to the viator, which for the purchase, sale, assignment, transfer, devise, or bequest of a portion of the death benefit or ownership of a life insurance policy or contract for consideration that is less than the expected death benefit of the life insurance policy in return for the viator's assignment, bequest, devise, sale, or transfer of all of the death benefit, certificate, or ownership of the insurance policy to the viatical settlement provider; or contract.~~ **The term does not include the following:**

- (1) A loan by a ~~life insurance company~~ **an insurer** under the terms of a life insurance policy, including a loan secured by the cash value of a policy.
- (2) **An agreement with a bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan.**
- (3) **The provision of accelerated death benefits by an insurer to an insured under the provisions of a life insurance contract.**
- (4) **Agreements between an insurer and a reinsurer.**
- (5) **An agreement by a person who enters into not more than one (1) such agreement in any five (5) year period to purchase a life insurance policy or contract for the transfer of a life insurance policy for a value that is less than the expected death benefit."**

Page 3, delete lines 35 through 41.

Page 4, after line 22, begin a new paragraph and insert:

SECTION 13. An emergency is declared for this act.

Renumber all SECTIONS consecutively.

(Reference is to ESB233 as printed February 17, 2000.)

M. SMITH

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 244

Representative Klinker called down Engrossed Senate Bill 244 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 489

Representative Bauer called down Engrossed Senate Bill 489 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 489-20)

Mr. Speaker: I move that Engrossed Senate Bill 489 be amended to read as follows:

Page 6, line 25, delete "full" and insert "full-time".

Page 6, line 26, delete "time".

Page 10, line 22, delete "a child immunization" and insert "**the CHILD future immunization**".

(Reference is to ESB 489 as printed February 17, 2000.)

BAUER

Motion prevailed.

HOUSE MOTION
(Amendment 489-2)

Mr. Speaker: I move that Engrossed Senate Bill 489 be amended to read as follows:

Page 1, line 8, reset in roman "published".

Page 1, line 8, delete "mailed".

Page 1, line 8, after "annually" delete ".".

Page 1, line 8, after "IC 5-3-1." insert "**on the Internet with access available for at least ninety (90) days. In addition, the school corporation shall mail the report free of charge to any individual who has a mailing address within the boundaries of the school corporation and who makes a request for the report in writing or by telephone, Internet, or facsimile. The school corporation shall also have sufficient copies in printed format available for free distribution at the school corporation.**".

Page 6, line 25, delete "full" and insert "**full-time**".

Page 6, line 26, delete "time".

Page 10, line 22, delete "immunization" and insert "immunization".

(Reference is to ESB 489 as printed February 17, 2000.)

BAUER

Motion prevailed.

HOUSE MOTION
(Amendment 489-1)

Mr. Speaker: I move that Engrossed Senate Bill 489 be amended to read as follows:

Page 6, line 25, delete "full" and insert "**full-time**".

Page 6, line 26, delete "time".

Page 8, line 38, after "(0.01)." insert "**The ADM count resulting from using full-time equivalency shall be increased by twenty percent (20%) to recognize administrative costs.**".

Page 10, line 22, delete "immunization" and insert "immunization".

(Reference is to ESB 489 as printed February 17, 2000.)

BAUER

Motion prevailed.

HOUSE MOTION
(Amendment 489-13)

Mr. Speaker: I move that Engrossed Senate Bill 489 be amended to read as follows:

Page 2, line 28, after "on" insert ":".

Page 2, between lines 30 and 31, begin a new line block indented and insert:

"(1) July 1 of the 2001-2002 school year;

(2) August 1 of the 2002-2003 school year; or"

Page 2, line 31, delete "July 1 of the 2000-2001 school year or",

begin a new line block indented and insert:

"(3) September 1 of the 2003-2004 school year or".

Page 2, line 31, after "subsequent school year" insert ":",

Page 2, line 31, before "to" begin a new line blocked left.

(Reference is to ESB 489 as printed February 17, 2000.)

BOSMA

Upon request of Representatives Bosma and Alderman, the Speaker ordered the roll of the House to be called. Roll Call 270: yeas 41, nays 57. Motion failed.

HOUSE MOTION
(Amendment 489-4)

Mr. Speaker: I move that Engrossed Senate Bill 489 be amended to read as follows:

Page 10, line 27, after "project." insert "**The full day kindergarten pilot project shall provide for funding, as limited by subsection (c), only for pupils who are participating in the full day kindergarten program and who are eligible for free or reduced price lunches under the national school lunch program.**".

Page 11, between lines 9 and 10, begin a new line blocked left and insert:

"Funding under the full day kindergarten pilot project may be provided to school corporations under subdivision (1) only for pupils who are participating in the full day kindergarten program and who are eligible for free or reduced price lunches under the national school lunch program. Funding under the full day kindergarten pilot project may be provided to school corporations under subdivision (2) only for classrooms that contain at least one (1) pupil who is eligible for free or reduced price lunches under the national school lunch program."

(Reference is to ESB 489 as printed February 17, 2000.)

ATTERHOLT

Upon request of Representatives Atterholt and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 271: yeas 42, nays 57. Motion failed.

HOUSE MOTION
(Amendment 489-7)

Mr. Speaker: I move that Engrossed Senate Bill 489 be amended to read as follows:

Page 1, between lines 8 and 9, begin a new paragraph and insert:
"SECTION 2. IC 20-5-13-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6.5. To improve the nutritional content of school lunches, a purchasing agent for a school lunch program shall give preference to calcium-fortified foods and beverages when purchasing foods and beverages for the school lunch program."

Renumber all SECTIONS consecutively.

(Reference is to ESB489 as printed February 17, 2000.)

FRIEND

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

HOUSE MOTION
(Amendment 489-3)

Mr. Speaker: I move that Engrossed Senate Bill 489 be amended to read as follows:

Page 11, between lines 9 and 10, begin a new paragraph and insert:

"(d) Before January 1, 2002, the department of education shall report to the governor and to the legislative council concerning the outcome of the full day kindergarten pilot project established by this SECTION. The report must include the following:

(1) The manner in which school corporations were selected to participate in the pilot project.

(2) The following data listed for each participating school corporation and also listed by state-wide totals:

(A) The amount of funding received by the participating school corporations.

(B) The number of classrooms that were funded by the pilot

project.

(C) The number of full day kindergarten students that were funded by the pilot project.

(D) The amount of funding that was used by participating school corporations to offset costs of previously existing full day kindergarten services.

(E) The number of full day kindergarten classrooms established by participating school corporations.

(3) A recommendation describing the circumstances in which full day kindergarten provides the greatest educational benefits and how schools should be funded to provide full day kindergarten in the future."

Page 11, line 10, delete "(d)" and insert "(e)".
(Reference is to ESB 489 as printed February 17, 2000.)

AYRES

Upon request of Representatives Ayres and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 272: yeas 47, nays 52. Motion failed.

HOUSE MOTION
(Amendment 489-9)

Mr. Speaker: I move that Engrossed Senate Bill 489 be amended to read as follows:

Page 1, delete lines 1 through 8.

Page 2, line 31, before "July" insert "**a date established by rule by the state superintendent of public instruction, but not earlier than**".

Page 2, line 38, delete "An assessment".

Page 2, delete lines 39 through 42.

Page 3, delete lines 1 through 5.

Page 3, line 20, delete "However, the model".

Page 3, delete lines 21 through 22.

Page 4, delete lines 12 through 42.

Page 5, delete lines 1 through 34.

Page 8, line 9, reset in roman "or".

Page 8, line 11, delete "; or" and insert ".".

Page 8, delete line 12.

Page 10, delete lines 3 through 42.

Page 11, delete lines 1 through 10.

Renumber all SECTIONS consecutively.

(Reference is to ESB 489 as printed February 17, 2000.)

ESPICH

After discussion, Representative Espich withdrew the motion.

HOUSE MOTION
(Amendment 489-16)

Mr. Speaker: I move that Engrossed Senate Bill 489 be amended to read as follows:

Page 10, line 14, delete "carry" and insert "**provide funding for school corporations as provided in**".

Page 10, delete line 15.

Page 10, line 26, delete "establish a full day" and insert "**provide a grant to each school corporation in 2001 based on the full-time equivalency of the school corporation's kindergarten pupils. The grant amount for each kindergarten full-time equivalent count is the total appropriation divided by the total kindergarten full-time equivalent count for all school corporations. The grant amount for a school corporation is the school corporation's kindergarten full-time equivalent count multiplied by the grant amount for each kindergarten full-time equivalent count. For purposes of this subsection, full-time equivalency is calculated by dividing the pupil's public school instructional time (as defined in IC 20-10.1-2-1(b)), rounded to the nearest one-hundredth (0.01), by the actual public school regular instructional day (as defined in IC 20-10.1-2-1(b)), rounded to the nearest one-hundredth (0.01).**".

Page 10, delete lines 27 through 42.

Page 11, delete lines 1 through 9.

Page 11, line 10, delete "(d)" and insert "(c)".

(Reference is to ESB 489 as printed February 17, 2000.)

ESPICH

Upon request of Representatives Espich and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 273: yeas 44,

nays 52. Motion failed.

HOUSE MOTION
(Amendment 489-12)

Mr. Speaker: I move that Engrossed Senate Bill 489 be amended to read as follows:

Page 1, delete lines 1 through 8.

Renumber all SECTIONS consecutively.

(Reference is to ESB 489 as printed February 17, 2000.)

SCHOLER

Motion failed.

HOUSE MOTION
(Amendment 489-15)

Mr. Speaker: I move that Engrossed Senate Bill 489 be amended to read as follows:

Page 3, line 1, delete "more than twenty-five dollars (\$25)" and insert "**a fee**".

(Reference is to ESB 489 as printed February 17, 2000.)

TURNER

Upon request of Representatives Turner and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 274: yeas 46, nays 51. Motion failed.

HOUSE MOTION
(Amendment 489-10)

Mr. Speaker: I move that Engrossed Senate Bill 489 be amended to read as follows:

Page 4, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 3. IC 20-10.1-2-5.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 5.3. The state board of education shall require principals and teachers in each public elementary and secondary school in this state to conduct, before the opening exercises of each school day, an oral recitation of the following excerpt from the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed."**"

Renumber all SECTIONS consecutively.

(Reference is to SB 489 as printed February 17, 2000.)

TURNER

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Turner's amendment (489-10) violates Rule 80. The amendment is germane as the bill deals with education.

TURNER
MURPHY

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

The question was, Shall the ruling of the Chair be sustained? Roll Call 275: yeas 53, nays 46. The ruling of the Chair was sustained.

There being no further amendments, the bill was ordered engrossed.

The Speaker Pro Tempore yielded the gavel to the Speaker.

Engrossed Senate Bill 246

Representative Bauer called down Engrossed Senate Bill 246 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 246-2)

Mr. Speaker: I move that Engrossed Senate Bill 246 be amended to read as follows:

Page 2, line 3, delete "a Scholastic Aptitude Test (SAT)" and insert "an SAT".

Page 2, line 4, after "(1,200)" insert "or its equivalent".

Page 3, line 3, delete "a Scholastic Aptitude Test (SAT)" and insert "an SAT".

Page 3, line 4, after "(1,200)" insert "or its equivalent".

(Reference is to ESB 246 as printed February 18, 2000.)

BAUER

Motion prevailed.

HOUSE MOTION
(Amendment 246-1)

Mr. Speaker: I move that Engrossed Senate Bill 246 be amended to read as follows:

Page 1, between lines 5 and 6, begin a new paragraph and insert: "**(b) As used in this section, "nonpublic school" has the meaning as set forth in IC 20-10.1-1-3 for "non-public school" .**"

Page 1, line 6, delete "(b)" and insert "(c)".

Page 1, line 9, delete "(c)" and insert "(d)".

Page 2, line 12, delete "(d)" and insert "(e)".

Page 2, line 13, delete "(e)" and insert "(f)".

Page 2, line 20, delete "(f)" and insert "(g)".

(Reference is to SB 246 as printed February 18, 2000.)

TURNER

Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 262

Representative Sturtz called down Engrossed Senate Bill 262 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 262-4)

Mr. Speaker: I move that Engrossed Senate Bill 262 be amended to read as follows:

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

"SECTION 1. IC 13-17-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. All open burning that is allowed under this chapter must comply with the following conditions:

(1) A person who open burns any material shall extinguish the fire if the fire:

(A) creates a ~~nuisance or~~ fire hazard to the property of another person; or

(B) poses a risk to human health;

as determined by a fire chief.

(2) Burning may not be conducted during unfavorable meteorological conditions such as high winds, temperature inversions, or air stagnation.

(3) All fires must be attended at all times during burning until completely extinguished.

(4) All asbestos containing materials must be removed before the burning of a structure.

(5) Asbestos containing materials may not be burned.

(6) Except as provided under section 1 of this chapter, all burning must comply with state and federal laws."

Renumber all SECTIONS consecutively.

(Reference is to ESB 262 as printed February 17, 2000.)

POND

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 278

Representative Porter called down Engrossed Senate Bill 278 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

Engrossed Senate Bill 315

Representative Stevenson called down Engrossed Senate Bill 315 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 315-1)

Mr. Speaker: I move that Engrossed Senate Bill 315 be amended to read as follows:

Page 5, after line 42, begin a new paragraph and insert:

"SECTION 2. IC 8-6-7.7-6.1 IS AMENDED TO READ AS FOLLOWS: Sec. 6.1. (a) The railroad grade crossing fund is created.

(b) The railroad grade crossing fund may be used by the Indiana department of transportation for the following purposes:

(1) To carry out the provisions of this chapter.

(2) For passive railroad crossing safety improvement projects by

a unit of government, including:

(i) illumination;

(ii) pavement markings;

(iii) median barriers;

(iv) signage; and

(v) other safety improvement measures.

(3) For passive railroad crossing safety projects submitted by railroad companies, including:

(i) illumination;

(ii) sight obstruction removal;

(iii) signage;

(iv) reflectorized taping; and

(v) other safety improvement measures.

(c) Notwithstanding subsection (b) of this section, the local unit of government or the railroad company shall pay the cost of acquiring any easements required by the passive railroad crossing safety project and shall be responsible for the maintenance and operation of the completed project.

(~~e~~) (d) The balance of money in the railroad grade crossing fund does not revert to the state general fund at the close of any fiscal year but remains available to the Indiana department of transportation."

(Reference is to SB 315 as printed February 17, 2000.)

TURNER

Upon request of Representatives Turner and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 276: yeas 91, nays 8. Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 317

Representative Sturtz called down Engrossed Senate Bill 317 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 317-1)

Mr. Speaker: I move that Engrossed Bill 317 be amended to read as follows:

Page 4, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 10. IC 13-30-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) Except as otherwise provided in subsection (b) or (c),

(1) a notice issued under section 4 of this chapter; or

(2) a law relating to emergency orders;

an order of the commissioner under this chapter takes effect twenty (20) days after the alleged violator receives the notice ~~unless the alleged violator requests under subsection (b) a review of the order before the twentieth day after receiving the notice issued under section 4 of this chapter.~~

(b) An order of the commissioner under this chapter does not take effect twenty (20) days after the alleged violator receives the notice issued under section 4 of this chapter if the alleged violator requests, under subsection (e), a review of the order within twenty (20) days after the alleged violator receives the notice.

(c) An order of the commissioner under this chapter may provide that the order takes effect more than twenty (20) days after the alleged violator receives the notice issued under section 4 of this chapter. An order of the commissioner under this subsection does not take effect at the time provided in the order if the alleged violator requests, under subsection (e), a review of the order within twenty (20) days after the alleged violator receives the notice.

(d) An emergency order of the commissioner under IC 13-14-10 takes effect as provided in that chapter.

(e) To request a review of the order, the alleged violator must:

- (1) file a written request with the office of environmental adjudication under IC 4-21.5-7; and
- (2) serve a copy of the request on the commissioner.

(f) If a review of an order is requested under this section, the office of environmental adjudication established under IC 4-21.5-7 shall review the order under IC 4-21.5."

Renumber all SECTIONS consecutively.
(Reference is to ESB 317 as printed February 17, 2000.)

GIA QUINTA

Motion prevailed.

HOUSE MOTION
(Amendment 317-4)

Mr. Speaker: I move that Engrossed Senate Bill 317 be amended to read as follows:

Page 1, line 8, after "system"" insert "means a non-community water system that does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year." .

Page 1, line 8, delete "has the".

Page 1, delete line 9.

Page 1, between lines 16 and 17, begin a new paragraph and insert: "SECTION 3. IC 13-18-11-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: Sec. 1.5. The department shall adopt regulations to implement certification programs for operators of water treatment plants or water distribution systems. The certification program for the operators shall be classified in accordance with the complexity, size and source of the water for the treatment system and the complexity and size for the distribution system."

Renumber all SECTIONS consecutively.
(Reference is to ESB317 as printed February 17, 2000.)

WOLKINS

Motion prevailed.

HOUSE MOTION
(Amendment 317-6)

Mr. Speaker: I move that Engrossed Senate Bill 317 be amended to read as follows:

Page 1, between lines 5 and 6, begin a new paragraph and insert: "SECTION 2. IC 13-13-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. The:

- (1) position of commissioner;
- (2) highest position in each of the offices, except for the offices identified in:
 - (A) ~~IC 13-13-3-1(1); and~~
 - (B) ~~IC 13-13-3-1(3); and the office identified in IC 13-13-3-1(2); and~~
- (3) highest position in each of the divisions, except for the division identified in ~~IC 13-13-3-2(4); IC 13-13-3-2(5);~~

are subject to IC 4-15-1.8."

Renumber all SECTIONS consecutively.
(Reference is to ESB 317 as printed February 17, 2000.)

ESPICH

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Chair ruled the point was well taken and the motion was out of order.

HOUSE MOTION
(Amendment 317-7)

Mr. Speaker: I move that Engrossed Senate Bill 317 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning water and electricity.

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

"SECTION 1. IC 8-1-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE FEBRUARY 21, 2000 (RETROACTIVE)]:

Chapter 31. Merchant Power Plants

Sec. 1. The definitions in IC 8-1-2-1 apply throughout this chapter.

Sec. 2. As used in this chapter, "department" refers to the department of environmental management established by IC 13-13-1-1.

Sec. 3. As used in this chapter, "merchant power plant" means a generating facility that produces electricity to be sold solely or primarily to the wholesale electricity market.

Sec. 4. A merchant power plant may not be constructed or operated in Indiana unless all of the following apply:

- (1) All of the following have approved construction and operation of the merchant power plant:
 - (A) The county executive of the county in which the merchant power plant is proposed to be located.
 - (B) The fiscal body of the county in which the merchant power plant is proposed to be located.
 - (C) If the merchant power plant is proposed to be located in a municipality, the municipality's legislative body.
- (2) Construction and operation of the merchant power plant have received all building and zoning approvals required by the county or municipality in which the merchant power plant is proposed to be located.
- (3) The commission has approved construction and operation of the merchant power plant.
- (4) The department has issued all necessary environmental permits for construction and operation of the merchant power plant.
- (5) A common construction wage is set for construction of the merchant power plant under the procedures described in IC 5-16-7.

Sec. 5. Construction and operation of a merchant power plant is subject to local building and zoning ordinances.

Sec. 6. The commission and the department may not approve, or grant permits for, the operation and construction of a merchant power plant before the requirements of section 4(1) and 4(2) of this chapter have been satisfied.

Sec. 7. For purposes of implementing IC 5-16-7 in the construction of a merchant power plant under this chapter, the following apply:

- (1) "Common construction wage" has the meaning set forth in IC 5-16-7-4(1).
- (2) The committee required to determine the common construction wage shall be appointed as provided in IC 5-16-7-1(b), except as follows:
 - (A) The owner of the proposed merchant power plant shall appoint a member of the committee to serve under IC 5-16-7-1(b)(2).
 - (B) If the merchant power plant is proposed to be located in a municipality, the legislative body of the municipality shall appoint a taxpayer of the municipality to serve as the member of the committee under IC 5-16-7-1(b)(4). If the merchant power plant is not proposed to be located in a municipality, the county fiscal body shall appoint a taxpayer of the county in which the merchant power plant is proposed to be located to serve as the member of the committee under IC 5-16-7-1(b)(4).
 - (C) The county executive of the county in which the merchant power plant is proposed to be located shall appoint a taxpayer of the county to serve as the member of the committee under IC 5-16-7-1(b)(5).
- (3) IC 5-16-7-1(c), IC 5-16-7-1(d), and IC 5-16-7-1(h) apply to setting a common construction wage under this chapter.
- (4) The common construction wage must be filed with the county executive of the county in which the merchant power plant is proposed to be constructed not later than two (2) weeks before any contracts for construction of the merchant power plant are awarded.
- (5) IC 5-16-7-2 applies to construction of a merchant power plant under this chapter. Notwithstanding IC 5-16-7-2, a contractor on a merchant power plant construction project

shall file the wage schedule required by IC 5-16-7-2 with the county executive of the county in which the merchant power plant is being constructed.

(6) A contractor or subcontractor who knowingly fails to pay the common construction wages determined by the committee under this chapter commits a Class B misdemeanor."

Page 5, after line 10, begin a new paragraph and insert:

"SECTION 12. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to ESB 317 as printed February 17, 2000.)

LIGGETT

Representative Behning rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Chair ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 322

Representative C. Brown called down Engrossed Senate Bill 322 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 330

Representative Klinker called down Engrossed Senate Bill 330 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 331

Representative Lytle called down Engrossed Senate Bill 331 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 343

Representative Cook called down Engrossed Senate Bill 343 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 343-1)

Mr. Speaker: I move that Engrossed Senate Bill 343 be amended to read as follows:

Page 7, delete lines 40 through 42.

(Reference is to ESB 343 as printed February 17, 2000.)

COOK

Motion prevailed.

HOUSE MOTION
(Amendment 343-4)

Mr. Speaker: I move that Engrossed Senate Bill 343 be amended to read as follows:

Page 7, between lines 32 and 33, begin a new paragraph and insert: "SECTION 8. IC 9-18-25-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1.2. No new special group recognition plates shall be eligible for adoption from July 2, 2000 until July 1, 2005."

Renumber all SECTIONS consecutively.

(Reference is to ESB 343 as printed February 17, 2000.)

RIPLEY

Motion failed.

HOUSE MOTION
(Amendment 343-2)

Mr. Speaker: I move that Engrossed Senate Bill 343 be amended to read as follows:

Page 7, line 27, delete "or".

Page 7, line 29, after ";," insert "or".

Page 7, between lines 29 and 30, begin a new line double block indented and insert:

"(KK) IC 9-18-56 (Indiana AFL-CIO trust license plates);"

Page 17, between lines 7 and 8, begin a new paragraph and insert: "SECTION 19. IC 9-18-56 IS ADDED TO THE INDIANA CODE AS

A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]:

Chapter 56. Indiana AFL-CIO Trust License Plates

Sec. 1. The bureau of motor vehicles shall design and issue an Indiana American Federation of Labor-Congress of Industrial Organizations license plate, to be known as the Indiana AFL-CIO trust license plate. The Indiana AFL-CIO trust license plate shall be designed and issued as a special group recognition license plate under IC 9-18-25.

Sec. 2. After December 31, 2001, a person who is eligible to register a vehicle under this title is eligible to receive an Indiana AFL-CIO trust license plate under this chapter upon doing the following:

(1) Completing an application for an Indiana AFL-CIO trust license plate.

(2) Paying the fees under section 3 of this chapter.

Sec. 3. (a) The fees for an Indiana AFL-CIO trust license plate are as follows:

(1) The appropriate fee under IC 9-29-5-38(a).

(2) An annual fee of twenty-five dollars (\$25).

(b) The annual fee referred to in subsection (a)(2) shall be collected by the bureau.

(c) The annual fee referred to in subsection (a)(2) shall be deposited in the fund established by section 4 of this chapter.

Sec. 4. (a) The Indiana AFL-CIO trust fund is established.

(b) 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 trust funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(c) The commissioner shall administer the fund. Expenses of administering the fund shall be paid from money in the fund.

(d) On June 30 of each year, the commissioner shall distribute the money from the fund to the general fund of the Indiana AFL-CIO, a labor organization under Section 501 (c)(5) of the Internal Revenue Code.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund."

Renumber all SECTIONS consecutively.

(Reference is to ESB 343 as printed February 17, 2000.)

CHENEY

Upon request of Representatives Cheney and Cook, the Speaker ordered the roll of the House to be called. Roll Call 277: yeas 81, nays 7. Motion prevailed.

HOUSE MOTION
(Amendment 343-5)

Mr. Speaker: I move that Engrossed Senate Bill 343 be amended to read as follows:

Page 12, line 12, delete "or".

Page 12, between lines 12 and 13, begin a new line block indented and insert:

"(3) Planned Parenthood of Central and Southern Indiana, Inc.;

(4) Planned Parenthood Association of Northwest, Northeast, Indiana, Inc.;

(5) Planned Parenthood of North Central Indiana, Inc.; or"

Page 12, line 13, delete "(3)" and insert "(6)".

(Reference is to ESB 343 as printed February 17, 2000.)

SUMMERS

After discussion, Representative Summers withdrew the motion.

HOUSE MOTION
(Amendment 343-3)

Mr. Speaker: I move that Engrossed Senate Bill 343 be amended to read as follows:

Page 7, line 27, delete "or".

Page 7, line 29, after ";," insert "or".

Page 7, between lines 29 and 30, begin a new line double block indented and insert:

"(KK) IC 9-18-56 (Indiana UAW trust license plates);"

Page 17, between lines 7 and 8, begin a new paragraph and insert: "SECTION 19. IC 9-18-56 IS ADDED TO THE INDIANA CODE AS

A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]:

Chapter 56. Indiana UAW Trust License Plates

Sec. 1. The bureau of motor vehicles shall design and issue an Indiana United Auto Workers license plate, to be known as the Indiana UAW trust license plate. The Indiana UAW trust license plate shall be designed and issued as a special group recognition license plate under IC 9-18-25.

Sec. 2. After December 31, 2001, a person who is eligible to register a vehicle under this title is eligible to receive an Indiana UAW trust license plate under this chapter upon doing the following:

- (1) **Completing an application for an Indiana UAW trust license plate.**
- (2) **Paying the fees under section 3 of this chapter.**

Sec. 3. (a) The fees for an Indiana UAW trust license plate are as follows:

- (1) **The appropriate fee under IC 9-29-5-38(a).**
- (2) **An annual fee of twenty-five dollars (\$25).**

(b) The annual fee referred to in subsection (a)(2) shall be collected by the bureau.

(c) The annual fee described in subsection (a)(2) shall be deposited in the fund established by section 4 of this chapter.

Sec. 4. (a) The Indiana UAW trust fund is established.

(b) 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 trust funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(c) The commissioner shall administer the fund. Expenses of administering the fund shall be paid from money in the fund.

(d) On June 30 of each year, the commissioner shall distribute the money from the fund to the general fund of the Indiana UAW, a labor organization under Section 501 (c)(5) of the Internal Revenue Code.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund."

Renumber all SECTIONS consecutively.

(Reference is to ESB 343 as printed February 17, 2000.)

KROMKOWSKI

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 351

Representative Bodiker called down Engrossed Senate Bill 351 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 351-1)

Mr. Speaker: I move that Engrossed Senate Bill 351 be amended to read as follows:

Page 2, after line 42, begin a new paragraph and insert:

"SECTION 3. IC 32-1-6-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 22. (a) Except as provided in subsection (d) or (e), the co-owners are bound to contribute pro rata, in the percentages computed according to section 7 of this chapter, toward the expenses of administration and of maintenance and repair of the general common areas and facilities, and, in the proper case, of the limited common areas and facilities of the building, and toward any other expense lawfully agreed upon.

(b) No co-owner may exempt himself from contributing toward such expenses by waiver of the use or enjoyment of the common areas and facilities or by abandonment of the condominium unit belonging to him.

(c) All sums assessed by the association of co-owners shall be established by using generally accepted accounting principles applied on a consistent basis and shall include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the common areas and facilities, which funds shall be used for those purposes and not for usual and ordinary repair expenses of the common areas and facilities. This fund for capital expenditures and replacement and repair of common areas and facilities shall be:

- (1) maintained in a separate interest bearing account with a bank or savings association authorized to conduct business in

the county in which the horizontal property regime is established; or

(2) invested under IC 5-13-9 in the same manner as state investments.

Assessments collected for contributions to this fund may not be subject to Indiana gross income tax or adjusted gross income tax.

(d) If the declaration so provides, the declarant or a developer (or a successor in interest of either) that is a co-owner of unoccupied condominium units offered for the first time for sale is excused from contributing toward the expenses referred to in subsection (a) for those units for a period of time that:

- (1) is stated in the declaration;
- (2) begins on the day that the declaration is recorded; and
- (3) terminates no later than the first day of the twenty-fourth calendar month following the month in which the closing of the sale of the first condominium unit occurs.

However, if the expenses referred to in subsection (a) that are incurred during the stated period exceed the amount assessed against the other co-owners, then the declarant, developer, or successor shall pay the excess.

(e) If the declaration does not contain the provisions referred to in subsection (d), the declarant or a developer (or a successor in interest of either) that is a co-owner of unoccupied condominium units offered for the first time for sale is excused from contributing toward the expenses referred to in subsection (a) for those units for a stated period of time if the declarant, developer, or successor:

- (1) has guaranteed to each purchaser (either in the purchase contract, in the declaration, in the prospectus, or by an agreement with a majority of the other co-owners) that the assessment for those expenses will not increase over a stated dollar amount during the stated period; and
- (2) has obligated itself to pay any amount of those expenses incurred during the stated period and not produced by the assessments at the guaranteed level receivable from the other co-owners."

Renumber all SECTIONS consecutively.

(Reference is to ESB 351 as printed February 17, 2000.)

AYRES

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 352

Representative Porter called down Engrossed Senate Bill 352 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 352-1)

Mr. Speaker: I move that Engrossed Senate Bill 352 be amended to read as follows:

Page 2, after line 21, begin a new paragraph and insert:

"SECTION 2. IC 20-10.1-7-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 18. A school corporation may include in its curriculum as an elective course a study of world literature, including the Bible and other similar great works of literature. The school corporation may not offer this course as a mandatory course of study.**

SECTION 3. [EFFECTIVE JULY 1, 2000] (a) **The Indiana state board of education and the professional standards board established under IC 20-1-1.4 shall jointly develop and report to the legislative council before January 1, 2001, a plan to implement the "Academic Study of Religion in Secondary Schools", which was implemented in Indiana in 1978, 1979, and 1980. The plan must do the following:**

- (1) **Address the following:**
 - (A) **The training of prospective and current teachers.**
 - (B) **Curriculum guidelines.**
 - (C) **Teacher training materials.**
 - (D) **Student learning materials.**
 - (E) **Costs.**

(2) **Follow guidelines established or implied by the United States Supreme Court on the teaching of religion in public schools.**

(3) Encourage variety in course programming, such as providing for courses to be offered as:

(A) self-contained units within language arts, fine arts, or social studies curricula; or

(B) part of an integrated program in humanities studies.

(4) To assure constitutional applications, address the need for teacher consultation and professional oversight and review to answer questions of interpretation and application.

(b) This SECTION expires July 1, 2002."

Re-number all SECTIONS consecutively.

(Reference is to ESB352 as printed February 17, 2000.)

BURTON

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Chair ruled the point was well taken and the motion was out of order.

Representative Porter withdrew the call of Engrossed Senate Bill 352.

Engrossed Senate Bill 355

Representative Pelath called down Engrossed Senate Bill 355 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 355-1)

Mr. Speaker: I move that Engrossed Senate Bill 355 be amended to read as follows:

Page 2, between lines 18 and 19, begin a new paragraph and insert: "SECTION 2. IC 8-22-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 4. (a) The board consists of four (4) members, whenever the fiscal body of an eligible entity, acting individually, establishes an authority. The members of the board shall be appointed by the executive of the entity, and not more than two (2) members of the board may be of the same political party.

(b) In the event that two (2) cities or one (1) city and one (1) town act jointly to establish an authority under this chapter, the board consists of five (5) members. The executive of each city or town shall each appoint two (2) members to the board. The county executive shall appoint one (1) member to the board. Each member appointed by an executive must be of a different political party than the other appointed member.

(c) In the event that an authority is established by a city or town and a county, acting jointly, the board consists of six (6) members. The executive of each entity shall appoint three (3) members. Not more than two (2) members appointed by each executive may be of the same political party.

(d) In the event that an authority was established under IC 19-6-3 (before its repeal on April 1, 1980) the board consists of five (5) members. Three (3) members of the board shall be appointed by the mayor of the city, and two (2) members of the board shall be appointed by the board of commissioners of the county. Not more than two (2) members representing the city may be members of the same political party, and not more than one (1) member representing the county may be a member of the same political party.

(e) Except as provided in section 4.1(b)(3) of this chapter, the county executive of each Indiana county that is adjacent to a county establishing an authority under this chapter and in which the authority owns real property may appoint one (1) advisory member to the board. An advisory member who is appointed under this subsection:

- (1) must be a resident of the adjacent county;
- (2) may not vote on any matter before the board;
- (3) serves at the pleasure of the appointing authority; and
- (4) serves without compensation or payment for expenses.

(f) This subsection applies to an airport authority board established under section 4.1 of this chapter. In addition to the advisory members appointed to the board by adjacent counties under subsection (e), the county executive of a county with a population of more than fifty thousand (50,000) but less than sixty thousand (60,000) may appoint one (1) advisory member to the board. An

advisory member who is appointed under this subsection:

- (1) must be a resident of the appointing county and of one (1) the three (3) townships in closest proximity to the airport;
- (2) may not vote on any matter before the board;
- (3) serves at the pleasure of the appointing authority; and
- (4) serves without compensation or payment for expenses."

Page 3, after line 15, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JULY 1, 2000] (a) This SECTION applies only to the board of an airport authority established for a county having a consolidated city.

(b) Before January 1, 2001, the county executive of a county with a population of more than (50,000) but less than sixty thousand (60,000) shall appoint an advisory member of the board as required by IC 8-22-3-4(f), as amended by this act.

(c) An individual appointed under this SECTION takes office January 1, 2001.

(d) This SECTION expires January 1, 2002."

Re-number all SECTIONS consecutively.

(Reference is to ESB355 as printed February 17, 2000.)

BEHNING

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Chair ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 370

Representative Klinker called down Engrossed Senate Bill 370 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 372

Representative Wolkins called down Engrossed Senate Bill 372 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 372-1)

Mr. Speaker: I move that Engrossed Senate Bill 372 be amended to read as follows:

Page 2, line 10, delete "industrial" and insert "**Industrial**".

Page 4, between lines 12 and 13, begin a new paragraph and insert: "SECTION 6. IC 13-18-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) A permit is required for the construction, installation, or modification of:

- (1) sources;
- (2) facilities;
- (3) equipment; or
- (4) devices;

of a public water supply, including water distribution systems.

(b) Plans and specifications for the construction, installation, or modification of sources, facilities, equipment, or devices of a public water supply must be submitted to the commissioner with a permit application. The plans and specifications must be complete and of sufficient detail to show all proposed construction, changes, or modifications that may affect the sanitary quality, chemical quality, or adequacy of the public water supply involved. The applicant shall supply any additional data or material considered appropriate by the commissioner to a review of the plans and specifications.

(c) Unless otherwise provided in rules adopted under section 8(b) of this chapter, plans and specifications must be submitted to the commissioner with the permit application for water distribution systems.

(d) Construction, installation, or modification of a public water supply may not begin until the commissioner has issued a permit under subsection (a).

(e) In determining whether to issue a permit under this section, the commissioner shall proceed under IC 13-15.

(f) If a permit application to the department includes plans and specifications prepared by a professional engineer registered under IC 25-31 for:

(1) construction, installation, or modification described in subsection (a): or

(2) construction, installation, or modification of a sewage works or wastewater treatment plant;

the department may not require changes to the plans and specifications as a condition to issuance of the permit unless the changes are approved by an employee of the department who is a professional engineer registered under IC 25-31."

Renumber all SECTIONS consecutively.

(Reference is to ESB 372 as printed February 17, 2000.)

BAILEY

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 373

Representative Klinker called down Engrossed Senate Bill 373 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 393

Representative Crosby called down Engrossed Senate Bill 393 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 401

Representative Dobis called down Engrossed Senate Bill 401 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 245

Representative Bauer called down Engrossed Senate Bill 245 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 408

Representative Bauer called down Engrossed Senate Bill 408 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 411

Representative GiaQuinta called down Engrossed Senate Bill 411 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 418

Representative Bardon called down Engrossed Senate Bill 418 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 419

Representative Robertson called down Engrossed Senate Bill 419 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 433

Representative Mellinger called down Engrossed Senate Bill 433 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 433-2)

Mr. Speaker: I move that Engrossed Bill 433 be amended to read as follows:

Delete the title and insert:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Page 8, between lines 39 and 40, begin a new paragraph and insert: "SECTION 19. IC 35-49-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. A person who knowingly or intentionally:

(1) disseminates matter to minors that is harmful to minors;

(2) displays matter that is harmful to minors in an area to which minors have visual, auditory, or physical access; ~~unless each minor is accompanied by his parent or guardian;~~

(3) sells or displays for sale to any person matter that is harmful to minors within five hundred (500) feet of the nearest property line of a school or church;

(4) engages in or conducts a performance before minors that is harmful to minors;

(5) engages in or conducts a performance that is harmful to minors in an area to which minors have visual, auditory, or physical access, unless each minor is accompanied by his parent or guardian;

(6) misrepresents his age for the purpose of obtaining admission to an area from which minors are restricted because of the display of matter or a performance that is harmful to minors; or

(7) misrepresents that he is a parent or guardian of a minor for the purpose of obtaining admission of the minor to an area where minors are being restricted because of display of matter or performance that is harmful to minors;

commits a Class D felony."

Renumber all SECTIONS consecutively.

(Reference is to ESB 433 as printed February 18, 2000.)

V. SMITH

Motion prevailed.

HOUSE MOTION
(Amendment 433-1)

Mr. Speaker: I move that Engrossed Senate Bill 433 be amended to read as follows:

Page 7, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 16. IC 11-11-3-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 10. The department shall ensure that an adequate number of telephones are available for use by offenders. The department shall, consistent with providing the least amount of overall disruption in the operation of the facility where an offender is confined, provide a calling system to confined offenders that gives the confined offenders a reasonable opportunity to communicate with other persons by telephone. The calling system provided to confined offenders may not require a confined offender to incur a service charge or user fee greater than an amount reasonably related to the reasonable and just rates and charges for delivering the service. The department, including any facility or employee of the department, may not receive any:**

- (1) fee;
- (2) discounted service; or
- (3) other consideration;

from a vendor in return for use by a confined offender of the vendor's telephone service."

Renumber all SECTIONS consecutively.

(Reference is to ESB 433 as printed February 18, 2000.)

V. SMITH

Upon request of Representatives Bosma and Linder, the Speaker ordered the roll of the House to be called. Roll Call 278: yeas 62, nays 37. Motion prevailed.

HOUSE MOTION
(Amendment 433-3)

Mr. Speaker: I move that Engrossed Senate Bill 433 be amended to read as follows:

Page 9, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 21. IC 35-50-6-3.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec.3.6. Notwithstanding sections 3 and 3.3 of this chapter, the maximum amount of credit time a person may earn under this chapter may not exceed fifty percent (50%) of the person's fixed term of imprisonment."**

Renumber all SECTIONS consecutively.

(Reference is to ESB433 as printed February 18, 2000.)

MURPHY

Representative Moses rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 433 a bill pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Murphy's amendment (433-3) is a bill pending before this House under Rule 118. The amendment is not identical or even similar to House Bill 1170.

MURPHY
BOSMA

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

The question was, Shall the ruling of the Chair be sustained? Roll Call 279: yeas 50, nays 47. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 442

Representative Lytle called down Engrossed Senate Bill 442 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 442-1)

Mr. Speaker: I move that Engrossed Senate Bill 442 be amended to read as follows:

Page 2, line 37, delete "or twelve (12) months, whichever is less". (Reference is to ESB 442 as printed February 18, 2000.)

LYTLE

Upon request of Representatives Bosma and Linder, the Speaker ordered the roll of the House to be called. Roll Call 280: yeas 56, nays 44. Motion prevailed.

HOUSE MOTION
(Amendment 442-2)

Mr. Speaker: I move that Engrossed Senate Bill 442 be amended to read as follows:

Page 2, line 21, strike "adult". (Reference is to ESB442 as printed February 18, 2000.)

THOMPSON

The Speaker ordered a division of the House and appointed Representatives Kruzan and Bosma to count the yeas and nays. Yeas 47, nays 43. Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 447

Representative Mahern called down Engrossed Senate Bill 447 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 447-1)

Mr. Speaker: I move that Engrossed Senate Bill 447 be amended to read as follows:

Page 2, after line 9, begin a new paragraph and insert:
"**(f) A member who participates in a meeting under subsection (b) may not cast the deciding vote on any official action.**". (Reference is to ESB 447 as printed February 17, 2000.)

MAHERN

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 455

Representative C. Brown called down Engrossed Senate Bill 455 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 455-1)

Mr. Speaker: I move that Engrossed Senate Bill 455 be amended to read as follows:

Page 3, line 4, delete "2001," and insert "**2000**".

(Reference is to ESB 455 as printed February 18, 2000.)

C. BROWN

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 469

Representative Pelath called down Engrossed Senate Bill 469 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 470

Representative Leuck called down Engrossed Senate Bill 470 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 470-2)

Mr. Speaker: I move that Engrossed Senate Bill 470 be amended to read as follows:

Page 5, after line 5, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE JULY 1, 2000] **Before January 1, 2001, the State of Indiana shall take all necessary steps to rename the vehicular traffic corridor extending from West Street to Senate Avenue in Indianapolis, Indiana, between the Indiana Governmental Center-North and the Indiana Governmental Center-South, as "Robert D. Orr Boulevard"**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 470 as printed February 17, 2000.)

MURPHY

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 504

Representative Crosby called down Engrossed Senate Bill 504 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 508

Representative Porter called down Engrossed Senate Bill 508 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 40

Representative Kuzman called down Engrossed Senate Bill 40 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 224

Representative Kuzman called down Engrossed Senate Bill 224 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 224-1)

Mr. Speaker: I move that Engrossed Senate Bill 224 be amended to read as follows:

Page 1, line 8, delete "." and insert "**, if the telephone number is a listed or published telephone number.**". (Reference is to ESB 224 as printed February 17, 2000.)

KUZMAN

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 44

Representative Leuck called down Engrossed Senate Bill 44 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 46

Representative Leuck called down Engrossed Senate Bill 46 for

second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 352

Representative Porter called down Engrossed Senate Bill 352 for second reading. The bill was reread a second time by title. There being no amendments, the bill was ordered engrossed.

The Speaker yielded the gavel to the Deputy Speaker Pro Tempore, Representative Crosby.

The Speaker was excused for the rest of the day.

Engrossed Senate Bill 431

Representative Sturtz called down Engrossed Senate Bill 431 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 431-7)

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 4, between lines 19 and 20, begin a new paragraph and insert: "SECTION 11. IC 13-13-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. The:

- (1) position of commissioner;
- (2) highest position in each of the offices, except for the offices identified in:

(A) ~~IC 13-13-3-1(1); and~~

(B) ~~IC 13-13-3-1(3); and the office identified in IC 13-13-3-1(2); and~~

- (3) highest position in each of the divisions, except for the division identified in ~~IC 13-13-3-2(4); IC 13-13-3-2(5);~~ are subject to IC 4-15-1.8."

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed February 17, 2000.)

ESPICH

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Chair ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Espich's amendment (431-7) violates Rule 80. The amendment is germane as the bill deals with the environment.

ESPICH
BOSMA

The Deputy Speaker Pro Tempore yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

The question was, Shall the ruling of the Chair be sustained? Roll Call 281: yeas 49, nays 47. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Deputy Speaker Pro Tempore.

HOUSE MOTION (Amendment 431-8)

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning energy and the environment.

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

"SECTION 1. IC 8-1-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE FEBRUARY 21, 2000 (RETROACTIVE)]:

Chapter 31. Merchant Power Plants

Sec. 1. The definitions in IC 8-1-2-1 apply throughout this chapter.

Sec. 2. As used in this chapter, "department" refers to the department of environmental management established by IC 13-13-1-1.

Sec. 3. As used in this chapter, "merchant power plant" means a generating facility that produces electricity to be sold solely or primarily to the wholesale electricity market.

Sec. 4. A merchant power plant may not be constructed or operated in Indiana unless all of the following apply:

(1) All of the following have approved construction and operation of the merchant power plant:

(A) The county executive of the county in which the merchant power plant is proposed to be located.

(B) The fiscal body of the county in which the merchant power plant is proposed to be located.

(C) If the merchant power plant is proposed to be located in a municipality, the municipality's legislative body.

(2) Construction and operation of the merchant power plant have received all building and zoning approvals required by the county or municipality in which the merchant power plant is proposed to be located.

(3) The commission has approved construction and operation of the merchant power plant.

(4) The department has issued all necessary environmental permits for construction and operation of the merchant power plant.

(5) A common construction wage is set for construction of the merchant power plant under the procedures described in IC 5-16-7.

Sec. 5. Construction and operation of a merchant power plant is subject to local building and zoning ordinances.

Sec. 6. The commission and the department may not approve, or grant permits for, the operation and construction of a merchant power plant before the requirements of section 4(1) and 4(2) of this chapter have been satisfied.

Sec. 7. For purposes of implementing IC 5-16-7 in the construction of a merchant power plant under this chapter, the following apply:

(1) "Common construction wage" has the meaning set forth in IC 5-16-7-4(1).

(2) The committee required to determine the common construction wage shall be appointed as provided in IC 5-16-7-1(b), except as follows:

(A) The owner of the proposed merchant power plant shall appoint a member of the committee to serve under IC 5-16-7-1(b)(2).

(B) If the merchant power plant is proposed to be located in a municipality, the legislative body of the municipality shall appoint a taxpayer of the municipality to serve as the member of the committee under IC 5-16-7-1(b)(4). If the merchant power plant is not proposed to be located in a municipality, the county fiscal body shall appoint a taxpayer of the county in which the merchant power plant is proposed to be located to serve as the member of the committee under IC 5-16-7-1(b)(4).

(C) The county executive of the county in which the merchant power plant is proposed to be located shall appoint a taxpayer of the county to serve as the member of the committee under IC 5-16-7-1(b)(5).

(3) IC 5-16-7-1(c), IC 5-16-7-1(d), and IC 5-16-7-1(h) apply to setting a common construction wage under this chapter.

(4) The common construction wage must be filed with the county executive of the county in which the merchant power plant is proposed to be constructed not later than two (2) weeks before any contracts for construction of the merchant power plant are awarded.

(5) IC 5-16-7-2 applies to construction of a merchant power plant under this chapter. Notwithstanding IC 5-16-7-2, a contractor on a merchant power plant construction project shall file the wage schedule required by IC 5-16-7-2 with the county executive of the county in which the merchant power plant is being constructed.

(6) A contractor or subcontractor who knowingly fails to pay the common construction wages determined by the committee under this chapter commits a Class B misdemeanor."

Page 1, line 6, delete "stormwater" and insert "storm water".

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed February 17, 2000.)

LIGGETT

Representative M. Smith rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Chair ruled the point was not well taken.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Liggett's amendment (431-8) does not violate Rule 80. The amendment is clearly not germane as the bill deals with water quality and the amendment deals with a merchant power plant.

M. SMITH
MURPHY

The Deputy Speaker Pro Tempore yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

The question was, Shall the ruling of the Chair be sustained? Roll Call 282: yeas 52, nays 44. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Deputy Speaker Pro Tempore.

The question then was on the motion of Representative Liggett (431-8). Upon request of Representatives Bosma and M. Smith, the Chair ordered the roll of the House to be called. Roll Call 283: yeas 31, nays 66. Motion failed. The bill was ordered engrossed.

The Deputy Speaker Pro Tempore yielded the gavel to the Speaker Pro Tempore.

Engrossed Senate Bill 490

Representative Mahern called down Engrossed Senate Bill 490 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 490-1)

Mr. Speaker: I move that Engrossed Senate Bill 490 be amended to read as follows:

Page 6, between lines 12 and 13, begin a new paragraph and insert: "SECTION 3. IC 8-1-33 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE FEBRUARY 15, 2000 (RETROACTIVE)]:

Chapter 33. Merchant Power Plants

Sec. 1. The definitions in IC 8-1-2-1 apply throughout this chapter.

Sec. 2. As used in this chapter, "merchant power plant" means a generating facility that produces electricity to be sold solely or primarily to the wholesale electricity market.

Sec. 3. A merchant power plant may not be constructed or operated in Indiana unless one (1) of the following applies:

(1) The commission approved construction and operation of the merchant power plant before February 15, 2000.

(2) The commission approves construction and operation of the merchant power plant after April 30, 2001.

(3) The commission approves construction and operation of the merchant power plant by a public utility company located entirely on the grounds of a steel mill."

Page 6, after line 23, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the regulatory flexibility committee established by IC 8-1-2.6-4.

(b) As used in this SECTION, "merchant power plant" has the meaning set forth in IC 8-1-33-2, as added by this act.

(c) The committee shall study the following issues related to merchant power plants:

(1) Local zoning.

(2) Regulation by the Indiana utility regulatory commission and other state agencies, including certificates of need.

(3) Public input into siting of merchant power plants.

(4) Environmental impact issues.

(5) Tax abatement and other tax issues.

(6) The need for additional electrical capacity.

(7) How the establishment of merchant power plants affects utility rates.

(8) How the establishment of merchant power plants affects community cohesion and quality of life.

(9) Any public health issues or concerns resulting from the establishment of merchant power plants.

(10) Any other issues the committee considers relevant to the establishment of merchant power plants.

(d) The committee shall issue a final report containing its findings or recommendations to the legislative council not later than January 1, 2001.

(e) This SECTION expires January 1, 2001.

SECTION 6. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to ESB 490 as printed February 18, 2000.)

MUNSON

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Chair ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Munson's amendment (490-1) violates Rule 80. The amendment is germane as the bill deals with utilities.

MUNSON
BOSMA

The Speaker Pro Tempore yielded the gavel to the Deputy Speaker Pro Tempore.

The question was, Shall the ruling of the Chair be sustained? Roll Call 284: yeas 48, nays 46. The ruling of the Chair was sustained.

There being no further amendments, the bill was ordered engrossed.

The Deputy Speaker Pro Tempore yielded the gavel to the Speaker Pro Tempore.

MOTIONS TO DISSENT FROM SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House dissent from the Senate amendments to Engrossed House Bill 1008 and that the Speaker appoint a committee to confer with a like committee from the Senate and report back to the House.

AYRES

Motion prevailed.

OTHER BUSINESS ON THE SPEAKER'S TABLE

HOUSE MOTION

Mr. Speaker: Having voted with the majority on today's motion that when we do adjourn, we adjourn until Thursday, February 24, 2000, at 10:00 a.m., I move pursuant to Rule 95 for the reconsideration thereof and move that when we do adjourn, we adjourn until Wednesday, February 23, 2000, at 10:00 a.m.

KRUZAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representative

Stilwell be added as coauthor of House Bill 1029.

STEELE

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Saunders be added as cosponsor of Engrossed Senate Bill 79.

WELCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative J. Lutz be added as cosponsor of Engrossed Senate Bill 204.

LYTLE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Avery be added as cosponsor of Engrossed Senate Bill 245.

BAUER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ruppel be added as cosponsor of Engrossed Senate Bill 351.

BODIKER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Behning and Bodiker be added as cosponsors of Engrossed Senate Bill 405.

BOTTORFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Dvorak be added as cosponsor of Engrossed Senate Bill 411.

GIA QUINTA

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Richardson be added as cosponsor of Engrossed Senate Bill 419.

ROBERTSON

Motion prevailed.

On the motion of Representative Mahern the House adjourned at 7:35 p.m., this twenty-first day of February, 2000, until Wednesday, February 23, 2000, at 10:00 a.m.

JOHN R. GREGG

Speaker of the House of Representatives

LEE SMITH

Principal Clerk of the House of Representatives