



Reprinted
February 5, 2002

HOUSE BILL No. 1313

DIGEST OF HB 1313 (Updated February 4, 2002 6:41 PM - DI 96)

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

Synopsis: Worker's and unemployment compensation. Provides for changes to benefits due for worker's compensation. Changes assessments to the second injury fund for injured employees, and establishes the second injury fund for occupational diseases. Provides for 10% interest from the date of filing an application for an adjustment of claim concerning the payment of workers' compensation. Provides that an employee who: (1) has an injury or occupational disease that results in a temporary total disability or a temporary partial impairment; and (2) is capable of performing work with permanent limitations or restrictions that prevent the employee from returning to the position the employee held before the employee's injury or occupational disease may receive compensation for the difference in average weekly earnings lost. Limits disabled from trade compensation and establishes a cap on compensation. Reduces worker's compensation to the employee by 15% for failure to use certain safety appliances or the failure to obey certain safety requirements (instead of denying compensation altogether), and increases compensation by 30% when the employer fails to comply with safety methods or to install or maintain safety appliances. Provides that unemployment benefits retroactive to the date of the beginning of a strike subject to the maximum benefit periods due may be paid to a striking individual when the employer shuts down operations. Provides that certain strike related benefits are not considered remuneration for purposes of computing deductible income for unemployment benefits, repeals the one week waiting period for benefits, and changes the base period used to compute benefits. Raises the unemployment compensation maximum wage credits. Establishes work sharing and job training unemployment compensation benefits. Makes conforming amendments.

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Effective: Upon passage; January 1, 2002; July 1, 2002; January 1, 2003.

Liggett

January 15, 2002, read first time and referred to Committee on Labor and Employment.
January 29, 2002, amended, reported — Do Pass.
February 4, 2002, read second time, amended, ordered engrossed.

HB 1313—LS 7321/DI 96+



Reprinted
February 5, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1313

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

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

- 1 SECTION 1. IC 22-3-2-2.5, AS ADDED BY P.L.235-1999,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2002]: Sec. 2.5. (a) As used in this section, "school to work
4 student" refers to a student participating in on-the-job training under
5 the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).
6 (b) Except as provided in IC 22-3-7-2.5, a school to work student is
7 entitled to the following compensation and benefits under this article:
8 (1) Medical benefits under IC 22-3-2 through IC 22-3-6.
9 (2) Permanent partial impairment compensation under
10 IC 22-3-3-10. Permanent partial impairment compensation for a
11 school to work student shall be paid in a lump sum upon
12 agreement or final award.
13 (3) In the case that death results from the injury:
14 (A) death benefits in a lump sum amount of one hundred
15 seventy-five thousand dollars (\$175,000), **subject to section**
16 **8(c) of this chapter**, payable upon agreement or final award
17 to any dependents of the student under IC 22-3-3-18 through

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1 IC 22-3-3-20, or, if the student has no dependents, to the
2 student's parents; and

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

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

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

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

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

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

13 (1) a school to work student; and

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

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

18 SECTION 2. IC 22-3-2-8 IS AMENDED TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) No compensation is allowed
20 for an injury or death due to the employee's:

21 (1) knowingly self-inflicted injury;

22 (2) his intoxication;

23 (3) his commission of an offense; his knowing failure to use a
24 safety appliance;

25 (4) his knowing failure to obey a reasonable written or printed
26 rule of the employer which has been posted in a conspicuous
27 position in the place of work; or

28 (5) his knowing failure to perform any statutory duty.

29 The burden of proof is on the defendant.

30 (b) Each payment of monetary compensation allowed under
31 IC 22-3-3-8, IC 22-3-3-9, IC 22-3-3-10 or IC 22-3-3-22 shall be
32 reduced by fifteen percent (15%) for an injury or a death caused
33 in any degree by the employee's intentional:

34 (1) failure to use a safety appliance furnished by the
35 employer; or

36 (2) failure to obey an order or administrative regulation of:

37 (A) the worker's compensation board; or

38 (B) the employer;

39 for the safety of the employees or the public.

40 (c) Each payment of monetary compensation allowed under
41 IC 22-3-3-8, IC 22-3-3-9, IC 22-3-3-10, or IC 22-3-3-22 shall be
42 increased by thirty percent (30%) for an injury or death caused in

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1 **any degree by the employer's intentional failure to comply with a**
 2 **statute or administrative regulation regarding safety methods or**
 3 **installation or maintenance of safety appliances that has been**
 4 **communicated to the employer.**

5 SECTION 3. IC 22-3-3-7 IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) Compensation shall be
 7 allowed on account of injuries producing only temporary total disability
 8 to work or temporary partial disability to work beginning with the
 9 eighth (8th) day of such disability except for medical benefits provided
 10 in section 4 of the chapter. Compensation shall be allowed for the first
 11 seven (7) calendar days only if the disability continues for longer than
 12 twenty-one (21) days.

13 (b) The first weekly installment of compensation for temporary
 14 disability is due fourteen (14) days after the disability begins. Not later
 15 than fifteen (15) days from the date that the first installment of
 16 compensation is due, the employer or the employer's insurance carrier
 17 shall tender to the employee or to the employee's dependents, with all
 18 compensation due, a properly prepared compensation agreement in a
 19 form prescribed by the board. Whenever an employer or the employer's
 20 insurance carrier denies or is not able to determine liability to pay
 21 compensation or benefits, the employer or the employer's insurance
 22 carrier shall notify the worker's compensation board and the employee
 23 in writing on a form prescribed by the worker's compensation board not
 24 later than thirty (30) days after the employer's knowledge of the
 25 claimed injury. If a determination of liability cannot be made within
 26 thirty (30) days, the worker's compensation board may approve an
 27 additional thirty (30) days upon a written request of the employer or the
 28 employer's insurance carrier that sets forth the reasons that the
 29 determination could not be made within thirty (30) days and states the
 30 facts or circumstances that are necessary to determine liability within
 31 the additional thirty (30) days. More than thirty (30) days of additional
 32 time may be approved by the worker's compensation board upon the
 33 filing of a petition by the employer or the employer's insurance carrier
 34 that sets forth:

- 35 (1) the extraordinary circumstances that have precluded a
- 36 determination of liability within the initial sixty (60) days;
- 37 (2) the status of the investigation on the date the petition is filed;
- 38 (3) the facts or circumstances that are necessary to make a
- 39 determination; and
- 40 (4) a timetable for the completion of the remaining investigation.

41 An employer who fails to comply with this section is subject to a civil
 42 penalty of fifty dollars (\$50), to be assessed and collected by the board

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1 upon notice and hearing. Civil penalties collected under this section
2 shall be deposited in the state general fund.

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

5 (1) the employee has returned to any employment;

6 (2) the employee has died;

7 (3) the employee has refused to undergo a medical examination
8 under section 6 of this chapter or has refused to accept suitable
9 employment under section 11 of this chapter;

10 (4) the employee has received five hundred (500) weeks of
11 temporary total disability benefits or has been paid the maximum
12 compensation allowed under section 22 of this chapter; ~~or~~

13 (5) the employee is unable or unavailable to work for reasons
14 unrelated to the compensable injury; **or**

15 **(6) the employee returns to work with limitations or**
16 **restrictions, and the employer converts temporary total**
17 **disability or temporary partial disability compensation into**
18 **disabled from trade compensation under section 33 of this**
19 **chapter.**

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

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1 opinion of the independent medical examiner, the party shall apply to
2 the board for a hearing under IC 22-3-4-5.

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

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

16 SECTION 4. IC 22-3-3-8 IS AMENDED TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) With respect to injuries
18 occurring prior to April 1, 1951, causing temporary total disability for
19 work there shall be paid to the injured employee during such total
20 disability for work a weekly compensation equal to fifty-five percent
21 (55%) of his average weekly wages for a period not to exceed five
22 hundred (500) weeks. With respect to injuries occurring on and after
23 April 1, 1951, and prior to July 1, 1971, causing temporary total
24 disability for work there shall be paid to the injured employee during
25 such total disability a weekly compensation equal to sixty per cent
26 (60%) of his average weekly wages for a period not to exceed five
27 hundred (500) weeks. With respect to injuries occurring on and after
28 July 1, 1971, and prior to July 1, 1974, causing temporary total
29 disability for work there shall be paid to the injured employee during
30 such total disability a weekly compensation equal to sixty per cent
31 (60%) of his average weekly wages, as defined in IC 22-3-3-22 a
32 period not to exceed five hundred (500) weeks. With respect to injuries
33 occurring on and after July 1, 1974, and before July 1, 1976, causing
34 temporary total disability or total permanent disability for work there
35 shall be paid to the injured employee during such total disability a
36 weekly compensation equal to sixty-six and two-thirds percent (66
37 $\frac{2}{3}$ %) of his average weekly wages up to one hundred and thirty-five
38 dollars (\$135.00) average weekly wages, as defined in section 22 of
39 this chapter, for a period not to exceed five hundred (500) weeks. With
40 respect to injuries occurring on and after July 1, 1976, causing
41 temporary total disability or total permanent disability for work, there
42 shall be paid to the injured employee during the total disability a

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1 weekly compensation equal to sixty-six and two-thirds percent (66
2 2/3%) of his average weekly wages, as defined in IC 22-3-3-22, for a
3 period not to exceed five hundred (500) weeks. Compensation shall be
4 allowed for the first seven (7) calendar days only if the disability
5 continues for longer than twenty-one (21) days.

6 **(b) As provided in IC 22-3-2-8(b), each payment of monetary**
7 **compensation allowed under subsection (a) shall be reduced by**
8 **fifteen percent (15%) for an injury caused in any degree by the**
9 **employee's intentional:**

10 **(1) failure to use a safety appliance furnished by the**
11 **employer; or**

12 **(2) failure to obey an order or administrative regulation of:**

13 **(A) the worker's compensation board; or**

14 **(B) the employer;**

15 **for the safety of the employees or the public.**

16 **(c) Each payment of monetary compensation allowed under**
17 **subsection (a) shall be increased by thirty percent (30%) for an**
18 **injury caused in any degree by the employer's intentional failure**
19 **to comply with a statute or administrative regulation regarding**
20 **safety methods or installation or maintenance of safety appliances**
21 **that has been communicated to the employer, as provided in**
22 **IC 22-3-2-8(c).**

23 SECTION 5. IC 22-3-3-9 IS AMENDED TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2002]: Sec. 9. **(a)** With respect to injuries
25 occurring prior to April 1, 1951 causing temporary partial disability for
26 work, compensation shall be paid to the injured employee during such
27 disability, as prescribed in section 7 of this chapter, a weekly
28 compensation equal to fifty-five per cent (55%) of the difference
29 between his average weekly wages and the weekly wages at which he
30 is actually employed after the injury, for a period not to exceed three
31 hundred (300) weeks. With respect to injuries occurring on and after
32 April 1, 1951 and prior to July 1, 1974 causing temporary partial
33 disability for work, compensation shall be paid to the injured employee
34 during such disability, as prescribed in section 7 of this chapter, a
35 weekly compensation equal to sixty per cent (60%) of the difference
36 between his average weekly wages and the weekly wages at which he
37 is actually employed after the injury, for a period not to exceed three
38 hundred (300) weeks. With respect to injuries occurring on and after
39 July 1, 1974 causing temporary partial disability for work,
40 compensation shall be paid to the injured employee during such
41 disability as prescribed in section 7 of this chapter, a weekly
42 compensation equal to sixty-six and two-thirds percent (66 2/3%) of

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1 the difference between his average weekly wages and the weekly wages
 2 at which he is actually employed after the injury, for a period not to
 3 exceed three hundred (300) weeks. In case the partial disability begins
 4 after the period of temporary total disability, the latter period shall be
 5 included as a part of the maximum period allowed for partial disability.

6 **(b) As provided in IC 22-3-2-8(b), each payment of monetary
 7 compensation allowed under subsection (a) shall be reduced by
 8 fifteen percent (15%) for an injury caused in any degree by the
 9 employee's intentional:**

10 **(1) failure to use a safety appliance furnished by the
 11 employer; or**

12 **(2) failure to obey an order or administrative regulation of:**

13 **(A) the worker's compensation board; or**

14 **(B) the employer;**

15 **for the safety of the employees or the public.**

16 **(c) Each payment of monetary compensation allowed under
 17 subsection (a) shall be increased by thirty percent (30%) for an
 18 injury caused in any degree by the employer's intentional failure
 19 to comply with a statute or administrative regulation regarding
 20 safety methods or installation or maintenance of safety appliances
 21 that has been communicated to the employer, as provided in
 22 IC 22-3-2-8(c).**

23 SECTION 6. IC 22-3-3-10, AS AMENDED BY P.L.31-2000,
 24 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2002]: Sec. 10. (a) With respect to injuries in the following
 26 schedule occurring prior to April 1, 1951, the employee shall receive
 27 in addition to temporary total disability benefits not exceeding
 28 twenty-six (26) weeks on account of the injuries, a weekly
 29 compensation of fifty-five percent (55%) of the employee's average
 30 weekly wages. With respect to injuries in the following schedule
 31 occurring on and after April 1, 1951, and prior to July 1, 1971, the
 32 employee shall receive in addition to temporary total disability benefits
 33 not exceeding twenty-six (26) weeks on account of the injuries, a
 34 weekly compensation of sixty percent (60%) of the employee's average
 35 weekly wages. With respect to injuries in the following schedule
 36 occurring on and after July 1, 1971, and before July 1, 1977, the
 37 employee shall receive in addition to temporary total disability benefits
 38 not exceeding twenty-six (26) weeks on account of the injuries, a
 39 weekly compensation of sixty percent (60%) of the employee's average
 40 weekly wages not to exceed one hundred dollars (\$100) average weekly
 41 wages, for the periods stated for the injuries. With respect to injuries
 42 in the following schedule occurring on and after July 1, 1977, and



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

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

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

34 (1) Amputation: For the loss by separation of the thumb, sixty
 35 (60) weeks, of the index finger forty (40) weeks, of the second
 36 finger thirty-five (35) weeks, of the third or ring finger thirty (30)
 37 weeks, of the fourth or little finger twenty (20) weeks, of the hand
 38 by separation below the elbow joint two hundred (200) weeks, or
 39 the arm above the elbow two hundred fifty (250) weeks, of the big
 40 toe sixty (60) weeks, of the second toe thirty (30) weeks, of the
 41 third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks,
 42 of the fifth or little toe ten (10) weeks, and for loss occurring



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

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

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

37 With respect to injuries in the following schedule occurring on and
 38 after July 1, 1990, and before July 1, 1991, the employee shall receive,
 39 in addition to temporary total disability benefits not exceeding
 40 seventy-eight (78) weeks on account of the injury, a weekly
 41 compensation of sixty percent (60%) of the employee's average weekly
 42 wages, not to exceed two hundred dollars (\$200) average weekly

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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

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1 a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's
2 average weekly wages during the fifty-two (52) weeks immediately
3 preceding the week in which the injury occurred.

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

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

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



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

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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

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1 each degree of permanent impairment above fifty (50), one
 2 thousand seven hundred dollars (\$1,700) per degree.
 3 (4) With respect to injuries occurring on and after July 1, 1997,
 4 and before July 1, 1998, for each degree of permanent impairment
 5 from one (1) to ten (10), seven hundred fifty dollars (\$750) per
 6 degree; for each degree of permanent impairment from eleven
 7 (11) to thirty-five (35), one thousand dollars (\$1,000) per degree;
 8 for each degree of permanent impairment from thirty-six (36) to
 9 fifty (50), one thousand four hundred dollars (\$1,400) per degree;
 10 for each degree of permanent impairment above fifty (50), one
 11 thousand seven hundred dollars (\$1,700) per degree.
 12 (5) With respect to injuries occurring on and after July 1, 1998,
 13 and before July 1, 1999, for each degree of permanent impairment
 14 from one (1) to ten (10), seven hundred fifty dollars (\$750) per
 15 degree; for each degree of permanent impairment from eleven
 16 (11) to thirty-five (35), one thousand dollars (\$1,000) per degree;
 17 for each degree of permanent impairment from thirty-six (36) to
 18 fifty (50), one thousand four hundred dollars (\$1,400) per degree;
 19 for each degree of permanent impairment above fifty (50), one
 20 thousand seven hundred dollars (\$1,700) per degree.
 21 (6) With respect to injuries occurring on and after July 1, 1999,
 22 and before July 1, 2000, for each degree of permanent impairment
 23 from one (1) to ten (10), nine hundred dollars (\$900) per degree;
 24 for each degree of permanent impairment from eleven (11) to
 25 thirty-five (35), one thousand one hundred dollars (\$1,100) per
 26 degree; for each degree of permanent impairment from thirty-six
 27 (36) to fifty (50), one thousand six hundred dollars (\$1,600) per
 28 degree; for each degree of permanent impairment above fifty (50),
 29 two thousand dollars (\$2,000) per degree.
 30 (7) With respect to injuries occurring on and after July 1, 2000,
 31 and before July 1, 2001, for each degree of permanent impairment
 32 from one (1) to ten (10), one thousand one hundred dollars
 33 (\$1,100) per degree; for each degree of permanent impairment
 34 from eleven (11) to thirty-five (35), one thousand three hundred
 35 dollars (\$1,300) per degree; for each degree of permanent
 36 impairment from thirty-six (36) to fifty (50), two thousand dollars
 37 (\$2,000) per degree; for each degree of permanent impairment
 38 above fifty (50), two thousand five hundred fifty dollars (\$2,500)
 39 per degree.
 40 (8) With respect to injuries occurring on and after July 1, 2001,
 41 **and before July 1, 2002**, for each degree of permanent
 42 impairment from one (1) to ten (10), one thousand three hundred

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

8 **(9) With respect to injuries occurring on and after July 1,**
9 **2002, and before July 1, 2003, for each degree of permanent**
10 **impairment from one (1) to ten (10), two thousand fifty**
11 **dollars (\$2,050) per degree; for each degree of permanent**
12 **impairment from eleven (11) to thirty-five (35), two thousand**
13 **seven hundred dollars (\$2,700) per degree; for each degree of**
14 **permanent impairment from thirty-six (36) to fifty (50), three**
15 **thousand three hundred dollars (\$3,300) per degree; for each**
16 **degree of permanent impairment above fifty (50), three**
17 **thousand nine hundred dollars (\$3,900) per degree.**

18 **(10) With respect to injuries occurring on and after July 1,**
19 **2003, for each degree of permanent impairment from one (1)**
20 **to ten (10), two thousand four hundred dollars (\$2,400) per**
21 **degree; for each degree of permanent impairment from eleven**
22 **(11) to thirty-five (35), three thousand seventy-five dollars**
23 **(\$3,075) per degree; for each degree of permanent**
24 **impairment from thirty-six (36) to fifty (50), three thousand**
25 **seven hundred seventy-five dollars (\$3,775) per degree; for**
26 **each degree of permanent impairment above fifty (50), four**
27 **thousand five hundred twenty-five dollars (\$4,525) per degree.**

28 **(12) With respect to injuries occurring on or after July 1,**
29 **2002, as provided in IC 22-3-2-8(b), each payment of**
30 **monetary compensation allowed under this subsection shall be**
31 **reduced by fifteen percent (15%) for an injury or a death**
32 **caused in any degree by the employee's intentional:**

33 **(A) failure to use a safety appliance furnished by the**
34 **employer; or**

35 **(B) failure to obey an order or administrative regulation**
36 **of:**

37 **(i) the worker's compensation board; or**

38 **(ii) the employer;**

39 **for the safety of the employees or the public.**

40 **(13) With respect to injuries occurring on or after July 1,**
41 **2002, each payment of monetary compensation allowed under**
42 **this subsection shall be increased by thirty percent (30%) for**

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1 **an injury or a death caused in any degree by the employer's**
2 **intentional failure to comply with a statute or administrative**
3 **regulation regarding safety methods or installation or**
4 **maintenance of safety appliances that has been communicated**
5 **to the employer, as provided in IC 22-3-2-8(c).**

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

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

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

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

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

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

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

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

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

25 (9) With respect to injuries occurring on or after July 1, 2001, and
26 before July 1, 2002, eight hundred twenty-two dollars (\$822).

27 (10) With respect to injuries occurring on or after July 1, 2002,
28 **and before July 1, 2003, eight hundred eighty-two dollars**
29 **(\$882).**

30 **(11) With respect to injuries occurring on or after July 1,**
31 **2003, nine hundred forty-two dollars (\$942).**

32 SECTION 7. IC 22-3-3-13, AS AMENDED BY P.L.202-2001,
33 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2002]: Sec. 13. (a) As used in this section, "board" refers to
35 the worker's compensation board created under IC 22-3-1-1.

36 (b) If an employee who from any cause, had lost, or lost the use of,
37 one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and
38 in a subsequent industrial accident becomes permanently and totally
39 disabled by reason of the loss, or loss of use of, another such member
40 or eye, the employer shall be liable only for the compensation payable
41 for such second injury. However, in addition to such compensation and
42 after the completion of the payment therefor, the employee shall be

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1 paid the remainder of the compensation that would be due for such
 2 total permanent disability out of a special fund known as the second
 3 injury fund, and created in the manner described in subsection (c).

4 (c) Whenever the board determines under the procedures set forth
 5 in subsection (d) that an assessment is necessary to ensure that fund
 6 beneficiaries, including applicants under section 4(e) of this chapter,
 7 continue to receive compensation in a timely manner for a reasonable
 8 prospective period, the board shall send notice not later than October
 9 1 in any year to:

10 (1) all insurance carriers and other entities insuring or providing
 11 coverage to employers who are or may be liable under this article
 12 to pay compensation for personal injuries to or the death of their
 13 employees under this article; and

14 (2) each employer carrying the employer's own risk;

15 stating that an assessment is necessary. After June 30, 1999, the board
 16 may conduct an assessment under this subsection not more than one (1)
 17 time annually. Every insurance carrier and other entity insuring or
 18 providing coverage to employers who are or may be liable under this
 19 article to pay compensation for personal injuries to or death of their
 20 employees under this article and every employer carrying the
 21 employer's own risk, shall, within thirty (30) days of the board sending
 22 notice under this subsection, pay to the worker's compensation board
 23 for the benefit of the fund an assessed amount that may not exceed ~~two~~
 24 **three** and one-half percent (~~2.5%~~) **(3.5%)** of the total amount of all
 25 worker's compensation paid to injured employees or their beneficiaries
 26 under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding
 27 the due date of such payment. For the purposes of calculating the
 28 assessment under this subsection, the board may consider payments for
 29 temporary total disability, temporary partial disability, permanent total
 30 impairment, permanent partial impairment, or death of an employee.
 31 The board may not consider payments for medical benefits in
 32 calculating an assessment under this subsection. If the amount to the
 33 credit of the second injury fund on or before October 1 of any year
 34 exceeds ~~one two million five hundred thousand~~ dollars (~~\$1,000,000~~);
 35 **(\$2,500,000)**, the assessment allowed under this subsection shall not
 36 be assessed or collected during the ensuing year. But when on or before
 37 October 1 of any year the amount to the credit of the fund is less than
 38 ~~one two million five hundred thousand~~ dollars (~~\$1,000,000~~);
 39 **(\$2,500,000)**, the payments of not more than ~~two three~~ and one-half
 40 percent (~~2.5%~~) **(3.5%)** of the total amount of all worker's compensation
 41 paid to injured employees or their beneficiaries under IC 22-3-2
 42 through IC 22-3-6 for the calendar year next preceding that date shall

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1 be resumed and paid into the fund. The board may not use an
 2 assessment rate greater than twenty-five hundredths of one percent
 3 (0.25%) above the amount recommended by the study performed
 4 before the assessment.

5 (d) The board shall enter into a contract with an actuary or another
 6 qualified firm that has experience in calculating worker's compensation
 7 liabilities. Not later than September 1 of each year, the actuary or other
 8 qualified firm shall calculate the recommended funding level of the
 9 fund based on the previous year's claims and inform the board of the
 10 results of the calculation. If the amount to the credit of the fund is less
 11 than the amount required under subsection (c), the board may conduct
 12 an assessment under subsection (c). The board shall pay the costs of the
 13 contract under this subsection with money in the fund.

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

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

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

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

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1 (2) exhausts the employee's benefits under section 10 of this
 2 chapter;
 3 then such employee may apply to the board, who may award the
 4 employee compensation from the second injury fund established by this
 5 section, as follows under subsection (h).

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

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

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

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

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

30 (1) not later than January 31 each calendar year; and

31 (2) not later than thirty (30) days after a change occurs;

32 the name, address, and electronic mail address of a representative
 33 authorized to receive the notice of an assessment.

34 SECTION 8. IC 22-3-3-22, AS AMENDED BY P.L.31-2000,
 35 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2002]: Sec. 22. (a) In computing the compensation under this
 37 law with respect to injuries occurring on and after April 1, 1963, and
 38 prior to April 1, 1965, the average weekly wages shall be considered
 39 to be not more than seventy dollars (\$70) nor less than thirty dollars
 40 (\$30). In computing the compensation under this law with respect to
 41 injuries occurring on and after April 1, 1965, and prior to April 1,
 42 1967, the average weekly wages shall be considered to be not more



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

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

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

7 In computing compensation for temporary total disability, temporary
8 partial disability, and total permanent disability, with respect to injuries
9 occurring on and after July 1, 1989, and before July 1, 1990, the
10 average weekly wages are considered to be (1) not more than four
11 hundred eleven dollars (\$411) and (2) not less than seventy-five dollars
12 (\$75). However, the weekly compensation payable shall not exceed the
13 average weekly wages of the employee at the time of the injury.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 **(7) with respect to injuries occurring on and after July 1,**
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(A) not more than nine hundred forty-two dollars (\$942);
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

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1 of this law or any combination of provisions shall not exceed forty-five
2 thousand dollars (\$45,000) in any case. With respect to an injury
3 occurring on and after July 1, 1976, and before July 1, 1977, the
4 maximum compensation, exclusive of medical benefits, which shall be
5 paid for any injury under any provision of this law or any combination
6 of provisions shall not exceed fifty-two thousand dollars (\$52,000) in
7 any case. With respect to any injury occurring on and after July 1,
8 1977, and before July 1, 1979, the maximum compensation, exclusive
9 of medical benefits, which may be paid for an injury under any
10 provision of this law or any combination of provisions may not exceed
11 sixty thousand dollars (\$60,000) in any case. With respect to any injury
12 occurring on and after July 1, 1979, and before July 1, 1980, the
13 maximum compensation, exclusive of medical benefits, which may be
14 paid for an injury under any provisions of this law or any combination
15 of provisions may not exceed sixty-five thousand dollars (\$65,000) in
16 any case. With respect to any injury occurring on and after July 1,
17 1980, and before July 1, 1983, the maximum compensation, exclusive
18 of medical benefits, which may be paid for an injury under any
19 provisions of this law or any combination of provisions may not exceed
20 seventy thousand dollars (\$70,000) in any case. With respect to any
21 injury occurring on and after July 1, 1983, and before July 1, 1984, the
22 maximum compensation, exclusive of medical benefits, which may be
23 paid for an injury under any provisions of this law or any combination
24 of provisions may not exceed seventy-eight thousand dollars (\$78,000)
25 in any case. With respect to any injury occurring on and after July 1,
26 1984, and before July 1, 1985, the maximum compensation, exclusive
27 of medical benefits, which may be paid for an injury under any
28 provisions of this law or any combination of provisions may not exceed
29 eighty-three thousand dollars (\$83,000) in any case. With respect to
30 any injury occurring on and after July 1, 1985, and before July 1, 1986,
31 the maximum compensation, exclusive of medical benefits, which may
32 be paid for an injury under any provisions of this law or any
33 combination of provisions may not exceed eighty-nine thousand dollars
34 (\$89,000) in any case. With respect to any injury occurring on and after
35 July 1, 1986, and before July 1, 1988, the maximum compensation,
36 exclusive of medical benefits, which may be paid for an injury under
37 any provisions of this law or any combination of provisions may not
38 exceed ninety-five thousand dollars (\$95,000) in any case. With respect
39 to any injury occurring on and after July 1, 1988, and before July 1,
40 1989, the maximum compensation, exclusive of medical benefits,
41 which may be paid for an injury under any provisions of this law or any
42 combination of provisions may not exceed one hundred twenty-eight

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1 thousand dollars (\$128,000) in any case.

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

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

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

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

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

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

32 (e) The maximum compensation, exclusive of medical benefits,
33 **subject to IC 22-3-2-8**, that may be paid for an injury under any
34 provision of this law or any combination of provisions may not exceed
35 the following amounts in any case:

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

39 (2) With respect to an injury occurring on and after July 1, 1998,
40 and before July 1, 1999, two hundred thirty-four thousand dollars
41 (\$234,000).

42 (3) With respect to an injury occurring on and after July 1, 1999,

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- 1 and before July 1, 2000, two hundred forty-four thousand dollars
- 2 (\$244,000).
- 3 (4) With respect to an injury occurring on and after July 1, 2000,
- 4 and before July 1, 2001, two hundred fifty-four thousand dollars
- 5 (\$254,000).
- 6 (5) With respect to an injury occurring on and after July 1, 2001,
- 7 and before July 1, 2002, two hundred seventy-four thousand
- 8 dollars (\$274,000).
- 9 (6) With respect to an injury occurring on and after July 1, 2002,
- 10 two hundred ninety-four thousand dollars (\$294,000).

11 SECTION 9. IC 22-3-3-33 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2002]: **Sec. 33. (a) If an employee:**

- 14 **(1) receives an injury that results in a temporary total**
- 15 **disability or a temporary partial disability; and**
- 16 **(2) is capable of performing work with permanent limitations**
- 17 **or restrictions that prevent the employee from returning to**
- 18 **the position the employee held before the employee's injury;**
- 19 **the employee may receive disabled from trade compensation.**

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

- 22 **(1) fifty-two (52) consecutive weeks; or**
- 23 **(2) seventy-eight (78) aggregate weeks.**

24 **(c) An employee is entitled to receive disabled from trade**
 25 **compensation in a weekly amount equal to the amount determined**
 26 **under STEP FOUR of the following formula:**

27 **STEP ONE: Determine the employee's average weekly**
 28 **earnings from employment with limitations or restrictions**
 29 **that is entered after the employee's injury, if any.**

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

32 **STEP THREE: Determine the greater of:**

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

35 **STEP FOUR: Determine the lesser of:**

- 36 **(A) the STEP THREE result; or**
- 37 **(B) seven hundred sixty-two dollars (\$762).**

38 **(d) Not later than sixty (60) days after the employee's release to**
 39 **return to work with restrictions or limitations, the employee must**
 40 **receive notice from the employer on a form provided by the board**
 41 **that informs the employee that the employee has been released to**
 42 **work with limitations or restrictions. The notice must include:**

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1 (1) an explanation of the limitations or restrictions placed on
2 the employee;

3 (2) the amount of disabled from trade compensation the
4 employee has been awarded; and

5 (3) information for the employee regarding the terms of this
6 section.

7 (e) Disabled from trade compensation is in addition to any other
8 compensation awarded to an employee as a result of a temporary
9 total disability or a permanent partial impairment.

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

14 SECTION 10. IC 22-3-4-10 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. In all proceedings
16 before the worker's compensation board or in a court under IC 22-3-2
17 through IC 22-3-6, the costs shall be awarded and taxed as provided by
18 law in ordinary civil actions in the circuit court. **Prejudgment interest**
19 **shall be awarded at a rate of ten percent (10%) per year accruing**
20 **from the date of filing of the application of adjustment of claim as**
21 **determined under section 5(a) of this chapter.**

22 SECTION 11. IC 22-3-7-2.5, AS ADDED BY P.L.235-1999,
23 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2002]: Sec. 2.5. (a) As used in this section, "school to work
25 student" refers to a student participating in on-the-job training under
26 the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).

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

29 (1) Medical benefits.

30 (2) Permanent partial impairment compensation under section 16
31 of this chapter. Permanent partial impairment compensation for
32 a school to work student shall be paid in a lump sum upon
33 agreement or final award.

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

35 (A) death benefits in a lump sum amount of one hundred
36 seventy-five thousand dollars (\$175,000), **subject to section**
37 **19(u) of this chapter**, payable upon agreement or final award
38 to any dependents of the student under sections 11 through 14
39 of this chapter, or, if the student has no dependents, to the
40 student's parents; and

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

42 (c) For the sole purpose of modifying an award under section 27 of

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1 this chapter, a school to work student's average weekly wage is
2 presumed to be equal to the federal minimum wage.

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

5 (1) Temporary total disability compensation under section 16 of
6 this chapter.

7 (2) Temporary partial disability compensation under section 19 of
8 this chapter.

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

11 (1) a school to work student; and

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

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

16 SECTION 12. IC 22-3-7-16, AS AMENDED BY P.L.1-2001,
17 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2002]: Sec. 16. (a) Compensation shall be allowed on account
19 of disablement from occupational disease resulting in only temporary
20 total disability to work or temporary partial disability to work
21 beginning with the eighth day of such disability except for the medical
22 benefits provided for in section 17 of this chapter. Compensation shall
23 be allowed for the first seven (7) calendar days only as provided in this
24 section. The first weekly installment of compensation for temporary
25 disability is due fourteen (14) days after the disability begins. Not later
26 than fifteen (15) days from the date that the first installment of
27 compensation is due, the employer or the employer's insurance carrier
28 shall tender to the employee or to the employee's dependents, with all
29 compensation due, a properly prepared compensation agreement in a
30 form prescribed by the board. Whenever an employer or the employer's
31 insurance carrier denies or is not able to determine liability to pay
32 compensation or benefits, the employer or the employer's insurance
33 carrier shall notify the worker's compensation board and the employee
34 in writing on a form prescribed by the worker's compensation board not
35 later than thirty (30) days after the employer's knowledge of the
36 claimed disablement. If a determination of liability cannot be made
37 within thirty (30) days, the worker's compensation board may approve
38 an additional thirty (30) days upon a written request of the employer or
39 the employer's insurance carrier that sets forth the reasons that the
40 determination could not be made within thirty (30) days and states the
41 facts or circumstances that are necessary to determine liability within
42 the additional thirty (30) days. More than thirty (30) days of additional

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1 time may be approved by the worker's compensation board upon the
2 filing of a petition by the employer or the employer's insurance carrier
3 that sets forth:

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

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

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

- 16 (1) the employee has returned to work;
- 17 (2) the employee has died;
- 18 (3) the employee has refused to undergo a medical examination
- 19 under section 20 of this chapter;
- 20 (4) the employee has received five hundred (500) weeks of
- 21 temporary total disability benefits or has been paid the maximum
- 22 compensation allowable under section 19 of this chapter; ~~or~~
- 23 (5) the employee is unable or unavailable to work for reasons
- 24 unrelated to the compensable disease; ~~or~~
- 25 **(6) the employee returns to work with limitations or**
- 26 **restrictions, and the employer converts temporary total**
- 27 **disability or temporary partial disability compensation into**
- 28 **disabled from trade compensation under section 16.5 of this**
- 29 **chapter.**

30 In all other cases the employer must notify the employee in writing of
31 the employer's intent to terminate the payment of temporary total
32 disability benefits, and of the availability of employment, if any, on a
33 form approved by the board. If the employee disagrees with the
34 proposed termination, the employee must give written notice of
35 disagreement to the board and the employer within seven (7) days after
36 receipt of the notice of intent to terminate benefits. If the board and
37 employer do not receive a notice of disagreement under this section,
38 the employee's temporary total disability benefits shall be terminated.
39 Upon receipt of the notice of disagreement, the board shall immediately
40 contact the parties, which may be by telephone or other means and
41 attempt to resolve the disagreement. If the board is unable to resolve
42 the disagreement within ten (10) days of receipt of the notice of

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1 disagreement, the board shall immediately arrange for an evaluation of
 2 the employee by an independent medical examiner. The independent
 3 medical examiner shall be selected by mutual agreement of the parties
 4 or, if the parties are unable to agree, appointed by the board under
 5 IC 22-3-4-11. If the independent medical examiner determines that the
 6 employee is no longer temporarily disabled or is still temporarily
 7 disabled but can return to employment that the employer has made
 8 available to the employee, or if the employee fails or refuses to appear
 9 for examination by the independent medical examiner, temporary total
 10 disability benefits may be terminated. If either party disagrees with the
 11 opinion of the independent medical examiner, the party shall apply to
 12 the board for a hearing under section 27 of this chapter.

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

19 (d) If it is determined that as a result of this section temporary total
 20 disability benefits were overpaid, the overpayment shall be deducted
 21 from any benefits due the employee under this section and, if there are
 22 no benefits due the employee or the benefits due the employee do not
 23 equal the amount of the overpayment, the employee shall be
 24 responsible for paying any overpayment which cannot be deducted
 25 from benefits due the employee.

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

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



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

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

20 (f) For disablements occurring on and after April 1, 1951, and prior
 21 to July 1, 1971, from occupational disease resulting in temporary
 22 partial disability for work there shall be paid to the disabled employee
 23 during such disability a weekly compensation equal to sixty percent
 24 (60%) of the difference between the employee's average weekly wages
 25 and the weekly wages at which the employee is actually employed after
 26 the disablement, for a period not to exceed three hundred (300) weeks.
 27 Compensation shall be allowed for the first seven (7) calendar days
 28 only if the disability continues for longer than twenty-eight (28) days.
 29 In case of partial disability after the period of temporary total disability,
 30 the later period shall be included as part of the maximum period
 31 allowed for partial disability.

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

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1 as a part of the maximum period allowed for partial disability.

2 For disablements occurring on and after July 1, 1974, from
3 occupational disease resulting in temporary partial disability for work
4 there shall be paid to the disabled employee during such disability a
5 weekly compensation equal to sixty-six and two-thirds percent (66
6 2/3%) of the difference between the employee's average weekly wages,
7 as defined in section 19 of this chapter, and the weekly wages at which
8 ~~he~~ **the employee** is actually employed after the disablement, for a
9 period not to exceed three hundred (300) weeks. Compensation shall
10 be allowed for the first seven (7) calendar days only if the disability
11 continues for longer than twenty-one (21) days. In case of partial
12 disability after the period of temporary total disability, the latter period
13 shall be included as a part of the maximum period allowed for partial
14 disability.

15 (g) For disabilities occurring on and after April 1, 1951, and prior
16 to April 1, 1955, from occupational disease in the following schedule,
17 the employee shall receive in lieu of all other compensation, on account
18 of such disabilities, a weekly compensation of sixty percent (60%) of
19 the employee's average weekly wage; for disabilities occurring on and
20 after April 1, 1955, and prior to July 1, 1971, from occupational disease
21 in the following schedule, the employee shall receive in addition to
22 disability benefits not exceeding twenty-six (26) weeks on account of
23 said occupational disease a weekly compensation of sixty percent
24 (60%) of the employee's average weekly wages.

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

32 For disabilities occurring on and after July 1, 1977, and before July
33 1, 1979, from occupational disease in the following schedule, the
34 employee shall receive in addition to disability benefits not exceeding
35 twenty-six (26) weeks on account of the occupational disease a weekly
36 compensation of sixty percent (60%) of the employee's average weekly
37 wages, not to exceed one hundred twenty-five dollars (\$125) average
38 weekly wages, for the period stated for the disabilities.

39 For disabilities occurring on and after July 1, 1979, and before July
40 1, 1988, from occupational disease in the following schedule, the
41 employee shall receive in addition to disability benefits, not exceeding
42 fifty-two (52) weeks on account of the occupational disease, a weekly

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1 compensation of sixty percent (60%) of the employee's average weekly
2 wages, not to exceed one hundred twenty-five dollars (\$125) average
3 weekly wages, for the period stated for the disabilities.

4 For disabilities occurring on and after July 1, 1988, and before July
5 1, 1989, from occupational disease in the following schedule, the
6 employee shall receive in addition to disability benefits, not exceeding
7 seventy-eight (78) weeks on account of the occupational disease, a
8 weekly compensation of sixty percent (60%) of the employee's average
9 weekly wages, not to exceed one hundred sixty-six dollars (\$166)
10 average weekly wages, for the period stated for the disabilities.

11 For disabilities occurring on and after July 1, 1989, and before July
12 1, 1990, from occupational disease in the following schedule, the
13 employee shall receive in addition to disability benefits, not exceeding
14 seventy-eight (78) weeks on account of the occupational disease, a
15 weekly compensation of sixty percent (60%) of the employee's average
16 weekly wages, not to exceed one hundred eighty-three dollars (\$183)
17 average weekly wages, for the period stated for the disabilities.

18 For disabilities occurring on and after July 1, 1990, and before July
19 1, 1991, from occupational disease in the following schedule, the
20 employee shall receive in addition to disability benefits, not exceeding
21 seventy-eight (78) weeks on account of the occupational disease, a
22 weekly compensation of sixty percent (60%) of the employee's average
23 weekly wages, not to exceed two hundred dollars (\$200) average
24 weekly wages, for the period stated for the disabilities.

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

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- 1 than two (2) phalanges of a finger shall be considered as the loss
 2 of one-half (1/2) the finger and compensation shall be paid for
 3 one-half (1/2) of the period for the loss of the entire finger.
- 4 (2) Loss of Use: The total permanent loss of the use of an arm,
 5 hand, thumb, finger, leg, foot, toe, or phalange shall be considered
 6 as the equivalent of the loss by separation of the arm, hand,
 7 thumb, finger, leg, foot, toe, or phalange and the compensation
 8 shall be paid for the same period as for the loss thereof by
 9 separation.
- 10 (3) Partial Loss of Use: For the permanent partial loss of the use
 11 of an arm, hand, thumb, finger, leg, foot, toe, or phalange,
 12 compensation shall be paid for the proportionate loss of the use of
 13 such arm, hand, thumb, finger, leg, foot, toe, or phalange.
- 14 (4) For disablements for occupational disease resulting in total
 15 permanent disability, five hundred (500) weeks.
- 16 (5) For the loss of both hands, or both feet, or the total sight of
 17 both eyes, or any two (2) of such losses resulting from the same
 18 disablement by occupational disease, five hundred (500) weeks.
- 19 (6) For the permanent and complete loss of vision by enucleation
 20 of an eye or its reduction to one-tenth (1/10) of normal vision with
 21 glasses, one hundred fifty (150) weeks, and for any other
 22 permanent reduction of the sight of an eye, compensation shall be
 23 paid for a period proportionate to the degree of such permanent
 24 reduction without correction or glasses. However, when such
 25 permanent reduction without correction or glasses would result in
 26 one hundred percent (100%) loss of vision, but correction or
 27 glasses would result in restoration of vision, then compensation
 28 shall be paid for fifty percent (50%) of such total loss of vision
 29 without glasses plus an additional amount equal to the
 30 proportionate amount of such reduction with glasses, not to
 31 exceed an additional fifty percent (50%).
- 32 (7) For the permanent and complete loss of hearing, two hundred
 33 (200) weeks.
- 34 (8) In all other cases of permanent partial impairment,
 35 compensation proportionate to the degree of such permanent
 36 partial impairment, in the discretion of the worker's compensation
 37 board, not exceeding five hundred (500) weeks.
- 38 (9) In all cases of permanent disfigurement, which may impair the
 39 future usefulness or opportunities of the employee, compensation
 40 in the discretion of the worker's compensation board, not
 41 exceeding two hundred (200) weeks, except that no compensation
 42 shall be payable under this paragraph where compensation shall

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1 be payable under subdivisions (1) through (8). Where
2 compensation for temporary total disability has been paid, this
3 amount of compensation shall be deducted from any
4 compensation due for permanent disfigurement.

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

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

30 (2) Amputations occurring on or after July 1, 1997: For the loss
31 by separation of any of the body parts described in subdivision (1)
32 on or after July 1, 1997, the dollar values per degree applying on
33 the date of the injury as described in subsection (h) shall be
34 multiplied by two (2). However, the doubling provision of this
35 subdivision does not apply to a loss of use that is not a loss by
36 separation.

37 (3) The loss of more than one (1) phalange of a thumb or toe shall
38 be considered as the loss of the entire thumb or toe. The loss of
39 more than two (2) phalanges of a finger shall be considered as the
40 loss of the entire finger. The loss of not more than one (1)
41 phalange of a thumb or toe shall be considered as the loss of
42 one-half (1/2) of the degrees of permanent impairment for the loss

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1 of the entire thumb or toe. The loss of not more than one (1)
 2 phalange of a finger shall be considered as the loss of one-third
 3 (1/3) of the finger and compensation shall be paid for one-third
 4 (1/3) of the degrees payable for the loss of the entire finger. The
 5 loss of more than one (1) phalange of the finger but not more than
 6 two (2) phalanges of the finger shall be considered as the loss of
 7 one-half (1/2) of the finger and compensation shall be paid for
 8 one-half (1/2) of the degrees payable for the loss of the entire
 9 finger.

10 (4) For the loss by separation of both hands or both feet or the
 11 total sight of both eyes or any two (2) such losses in the same
 12 accident, one hundred (100) degrees of permanent impairment.

13 (5) For the permanent and complete loss of vision by enucleation
 14 or its reduction to one-tenth (1/10) of normal vision with glasses,
 15 thirty-five (35) degrees of permanent impairment.

16 (6) For the permanent and complete loss of hearing in one (1) ear,
 17 fifteen (15) degrees of permanent impairment, and in both ears,
 18 forty (40) degrees of permanent impairment.

19 (7) For the loss of one (1) testicle, ten (10) degrees of permanent
 20 impairment; for the loss of both testicles, thirty (30) degrees of
 21 permanent impairment.

22 (8) Loss of use: The total permanent loss of the use of an arm, a
 23 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
 24 considered as the equivalent of the loss by separation of the arm,
 25 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
 26 shall be paid in the same amount as for the loss by separation.
 27 However, the doubling provision of subdivision (2) does not
 28 apply to a loss of use that is not a loss by separation.

29 (9) Partial loss of use: For the permanent partial loss of the use of
 30 an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
 31 phalange, compensation shall be paid for the proportionate loss of
 32 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

33 (10) For disablements resulting in total permanent disability, the
 34 amount payable for impairment or five hundred (500) weeks of
 35 compensation, whichever is greater.

36 (11) For any permanent reduction of the sight of an eye less than
 37 a total loss as specified in subdivision (5), the compensation shall
 38 be paid in an amount proportionate to the degree of a permanent
 39 reduction without correction or glasses. However, when a
 40 permanent reduction without correction or glasses would result in
 41 one hundred percent (100%) loss of vision, then compensation
 42 shall be paid for fifty percent (50%) of the total loss of vision

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1 without glasses, plus an additional amount equal to the
 2 proportionate amount of the reduction with glasses, not to exceed
 3 an additional fifty percent (50%).
 4 (12) For any permanent reduction of the hearing of one (1) or both
 5 ears, less than the total loss as specified in subdivision (6),
 6 compensation shall be paid in an amount proportionate to the
 7 degree of a permanent reduction.
 8 (13) In all other cases of permanent partial impairment,
 9 compensation proportionate to the degree of a permanent partial
 10 impairment, in the discretion of the worker's compensation board,
 11 not exceeding one hundred (100) degrees of permanent
 12 impairment.
 13 (14) In all cases of permanent disfigurement which may impair
 14 the future usefulness or opportunities of the employee,
 15 compensation, in the discretion of the worker's compensation
 16 board, not exceeding forty (40) degrees of permanent impairment
 17 except that no compensation shall be payable under this
 18 subdivision where compensation is payable elsewhere in this
 19 section.
 20 (h) With respect to disablements occurring on and after July 1,
 21 1991, compensation for permanent partial impairment shall be paid
 22 according to the degree of permanent impairment for the disablement
 23 determined under subsection (d) and the following:
 24 (1) With respect to disablements occurring on and after July 1,
 25 1991, and before July 1, 1992, for each degree of permanent
 26 impairment from one (1) to thirty-five (35), five hundred dollars
 27 (\$500) per degree; for each degree of permanent impairment from
 28 thirty-six (36) to fifty (50), nine hundred dollars (\$900) per
 29 degree; for each degree of permanent impairment above fifty (50),
 30 one thousand five hundred dollars (\$1,500) per degree.
 31 (2) With respect to disablements occurring on and after July 1,
 32 1992, and before July 1, 1993, for each degree of permanent
 33 impairment from one (1) to twenty (20), five hundred dollars
 34 (\$500) per degree; for each degree of permanent impairment from
 35 twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)
 36 per degree; for each degree of permanent impairment from
 37 thirty-six (36) to fifty (50), one thousand three hundred dollars
 38 (\$1,300) per degree; for each degree of permanent impairment
 39 above fifty (50), one thousand seven hundred dollars (\$1,700) per
 40 degree.
 41 (3) With respect to disablements occurring on and after July 1,
 42 1993, and before July 1, 1997, for each degree of permanent

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

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1 permanent impairment from thirty-six (36) to fifty (50), two
2 thousand dollars (\$2,000) per degree; for each degree of
3 permanent impairment above fifty (50), two thousand five
4 hundred fifty dollars (\$2,500) per degree.

5 (8) With respect to disablements occurring on and after July 1,
6 2001, **and before July 1, 2002**, for each degree of permanent
7 impairment from one (1) to ten (10), one thousand three hundred
8 dollars (\$1,300) per degree; for each degree of permanent
9 impairment from eleven (11) to thirty-five (35), one thousand five
10 hundred dollars (\$1,500) per degree; for each degree of
11 permanent impairment from thirty-six (36) to fifty (50), two
12 thousand four hundred dollars (\$2,400) per degree; for each
13 degree of permanent impairment above fifty (50), three thousand
14 dollars (\$3,000) per degree.

15 **(9) With respect to disablements occurring on and after July**
16 **1, 2002, and before July 1, 2003, for each degree of permanent**
17 **impairment from one (1) to ten (10), two thousand fifty**
18 **dollars (\$2,050) per degree; for each degree of permanent**
19 **impairment from eleven (11) to thirty-five (35), two thousand**
20 **seven hundred dollars (\$2,700) per degree; for each degree of**
21 **permanent impairment from thirty-six (36) to fifty (50), three**
22 **thousand three hundred dollars (\$3,300) per degree; for each**
23 **degree of permanent impairment above fifty (50), three**
24 **thousand nine hundred dollars (\$3,900) per degree.**

25 **(10) With respect to disablements occurring on and after July**
26 **1, 2003, for each degree of permanent impairment from one**
27 **(1) to ten (10), two thousand four hundred dollars (\$2,400) per**
28 **degree; for each degree of permanent impairment from eleven**
29 **(11) to thirty-five (35), three thousand seventy-five dollars**
30 **(\$3,075) per degree; for each degree of permanent**
31 **impairment from thirty-six (36) to fifty (50), three thousand**
32 **seven hundred seventy-five dollars (\$3,775) per degree; for**
33 **each degree of permanent impairment above fifty (50), four**
34 **thousand five hundred twenty-five dollars (\$4,525) per degree.**

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

38 (1) With respect to disablements occurring on or after July 1,
39 1991, and before July 1, 1992, four hundred ninety-two dollars
40 (\$492).

41 (2) With respect to disablements occurring on or after July 1,
42 1992, and before July 1, 1993, five hundred forty dollars (\$540).

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- 1 (3) With respect to disablements occurring on or after July 1,
 2 1993, and before July 1, 1994, five hundred ninety-one dollars
 3 (\$591).
 4 (4) With respect to disablements occurring on or after July 1,
 5 1994, and before July 1, 1997, six hundred forty-two dollars
 6 (\$642).
 7 (5) With respect to disablements occurring on or after July 1,
 8 1997, and before July 1, 1998, six hundred seventy-two dollars
 9 (\$672).
 10 (6) With respect to disablements occurring on or after July 1,
 11 1998, and before July 1, 1999, seven hundred two dollars (\$702).
 12 (7) With respect to disablements occurring on or after July 1,
 13 1999, and before July 1, 2000, seven hundred thirty-two dollars
 14 (\$732).
 15 (8) With respect to disablements occurring on or after July 1,
 16 2000, and before July 1, 2001, seven hundred sixty-two dollars
 17 (\$762).
 18 (9) With respect to ~~injuries~~ **disablements** occurring on or after
 19 July 1, 2001, and before July 1, 2002, eight hundred twenty-two
 20 dollars (\$822).
 21 (10) With respect to ~~injuries~~ **disablements** occurring on or after
 22 July 1, 2002, **and before July 1, 2003**, eight hundred eighty-two
 23 dollars (\$882).
 24 **(11) With respect to disablements occurring on or after July**
 25 **1, 2003, nine hundred forty-two dollars (\$942).**
 26 (j) If any employee, only partially disabled, refuses employment
 27 suitable to ~~his~~ **the employee's** capacity ~~procured for him,~~ **he the**
 28 **employee** shall not be entitled to any compensation at any time during
 29 the continuance of such refusal unless, in the opinion of the worker's
 30 compensation board, such refusal was justifiable. The employee must
 31 be served with a notice setting forth the consequences of the refusal
 32 under this subsection. The notice must be in a form prescribed by the
 33 worker's compensation board.
 34 (k) If an employee has sustained a permanent impairment or
 35 disability from an accidental injury other than an occupational disease
 36 in another employment than that in which ~~he~~ **the employee** suffered a
 37 subsequent disability from an occupational disease, such as herein
 38 specified, the employee shall be entitled to compensation for the
 39 subsequent disability in the same amount as if the previous impairment
 40 or disability had not occurred. However, if the permanent impairment
 41 or disability resulting from an occupational disease for which
 42 compensation is claimed results only in the aggravation or increase of

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

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

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

36 (n) When an employee has been awarded or is entitled to an award
 37 of compensation for a definite period under this chapter for disability
 38 from occupational disease, which disablement occurs on and after April
 39 1, 1951, and prior to April 1, 1963, and such employee dies from any
 40 other cause than such occupational disease, payment of the unpaid
 41 balance of such compensation, not exceeding three hundred (300)
 42 weeks, shall be made to the employee's dependents of the second and

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

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

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

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

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

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

41 (s) All compensation payments named and provided for in this
 42 section, shall mean and be defined to be for only such occupational

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1 diseases and disabilities therefrom as are proved by competent
 2 evidence, of which there are or have been objective conditions or
 3 symptoms proven, not within the physical or mental control of the
 4 employee himself.

5 **(t) Each payment of monetary compensation due under this**
 6 **section shall be reduced by fifteen percent (15%) for an**
 7 **occupational disease or death resulting from an occupational**
 8 **disease caused in any degree by the employee's intentional:**

9 **(1) failure to use a safety appliance furnished by the**
 10 **employer; or**

11 **(2) failure to obey a lawful order or administrative regulation**
 12 **of:**

13 **(A) the worker's compensation board; or**

14 **(B) the employer;**

15 **for the safety of the employees or the public.**

16 **(u) Each payment of monetary compensation allowed under this**
 17 **section shall be increased by thirty percent (30%) for an**
 18 **occupational disease or a death resulting from an occupational**
 19 **disease caused in any degree by the employer's intentional failure**
 20 **to comply with a statute or administrative regulation regarding**
 21 **safety methods or installation or maintenance of safety appliances**
 22 **that has been communicated to the employer.**

23 SECTION 13. IC 22-3-7-16.1 IS ADDED TO THE INDIANA
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2002]: **Sec. 16.1. (a) As used in this section,**
 26 **"board" refers to the worker's compensation board created by**
 27 **IC 22-3-1-1.**

28 **(b) If an employee who from an occupational disease becomes**
 29 **permanently and totally impaired by reason of the loss, or loss of**
 30 **use of, another such member or eye, the employer is liable only for**
 31 **the compensation payable for the second injury. However, in**
 32 **addition to that compensation and after the completion of the**
 33 **payment for that compensation, the employee shall be paid the**
 34 **remainder of the compensation that would be due for the total**
 35 **permanent impairment out of a special fund known as the**
 36 **occupational disease second injury fund.**

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

42 **(1) all insurance carriers and other entities insuring or**

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1 providing coverage to employers who are or may be liable
 2 under this article to pay compensation for personal injuries to
 3 or for the death of one (1) of their employees from an
 4 occupational disease; and

5 (2) each employer carrying the employer's own risk for
 6 personal injuries to or the death of one (1) of their employees
 7 from an occupational disease;

8 stating that an assessment is necessary. The board may conduct an
 9 assessment under this subsection not more than one (1) time
 10 annually. Every insurance carrier insuring employers who are or
 11 may be liable under this article to pay compensation for
 12 disablement or death from occupational diseases of their employees
 13 under this article and every employer carrying the employer's own
 14 risk shall, not later than thirty (30) days after receiving notice from
 15 the board, pay to the worker's compensation board for the benefit
 16 of a fund to be known as the occupational disease second injury
 17 fund. The payment shall be in a sum equal to one and one-half
 18 percent (1.5%) of the total amount of all payments under this
 19 chapter for occupational diseases paid to employees with
 20 occupational diseases or their beneficiaries under this chapter for
 21 the calendar year next preceding the due date of the payment. If
 22 the amount to the credit of the occupational diseases second injury
 23 fund as of October 1 of any year exceeds one million dollars
 24 (\$1,000,000), the payments of one and one-half percent (1.5%) shall
 25 not be assessed or collected during the ensuing year. However, if on
 26 October 1 of any year the amount to the credit of the fund is less
 27 than one million dollars (\$1,000,000), the payments of one and
 28 one-half percent (1.5%) of the total amount of all payments under
 29 this chapter for occupational diseases paid to employees with
 30 occupational diseases or their beneficiaries under this chapter for
 31 the calendar year next preceding that date shall be resumed and
 32 paid into the fund.

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



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

17 (f) The sums under this section shall be paid by the worker's
18 compensation board to the treasurer of state, to be deposited in a
19 special account known as the occupational diseases second injury
20 fund. The fund is not part of the state general fund. Any balance
21 remaining in the account at the end of any fiscal year does not
22 revert to the state general fund. The fund shall be used only for the
23 payment of awards of compensation and expense of medical
24 examinations or treatment made and ordered by the board and
25 chargeable against the occupational diseases second injury fund
26 under this section and shall be paid for that purpose by the
27 treasurer of state upon award or order of the board.

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

- 30 (1) exhausts the maximum benefits under section 19 of this
31 chapter without having received the full amount of award
32 granted to the employee under section 16 of this chapter; or
33 (2) exhausts the employee's benefits under section 16 of this
34 chapter;

35 the employee may apply to the worker's compensation board,
36 which may award the employee compensation from the
37 occupational diseases second injury fund established by this
38 section, as provided under subsection (b).

39 (h) An employee who has exhausted the employee's maximum
40 benefits under section 10 of this chapter may be awarded
41 additional compensation equal to sixty-six and two-thirds percent
42 (66 2/3%) of the employee's average weekly wage at the time of the

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1 employee's disablement from occupational disease, not to exceed
2 the maximum then applicable under section 19 of this chapter for
3 a period not to exceed one hundred fifty (150) weeks upon
4 competent evidence sufficient to establish:

5 (1) that the employee is totally and permanently disabled from
6 an occupational disease of which there are or have been
7 objective conditions and symptoms proven that are not within
8 the physical or mental control of the employee; and

9 (2) that the employee is unable to support the employee in any
10 gainful employment, not associated with rehabilitative or
11 vocational therapy.

12 (i) The additional award may be renewed during the employee's
13 total and permanent disability after appropriate hearings by the
14 worker's compensation board for successive periods not to exceed
15 one hundred fifty (150) weeks each.

16 SECTION 14. IC 22-3-7-16.5 IS ADDED TO THE INDIANA
17 CODE AS A NEW SECTION TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2002]: Sec. 16.5. (a) If an employee:

19 (1) suffers an occupational disease that results in a temporary
20 total disability or a temporary partial disability; and

21 (2) is capable of performing work with permanent limitations
22 or restrictions that prevent the employee from returning to
23 the position the employee held before the employee's
24 occupational disease;

25 the employee may receive disabled from trade compensation.

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

28 (1) fifty-two (52) consecutive weeks; or

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

30 (c) An employee is entitled to receive disabled from trade
31 compensation in a weekly amount equal to the amount determined
32 under STEP FOUR of the following formula:

33 STEP ONE: Determine the employee's average weekly
34 earnings from employment with limitations or restrictions
35 that is entered after the employee's occupational disease, if
36 any.

37 STEP TWO: Determine the employee's average weekly
38 earnings from employment before the employee's
39 occupational disease.

40 STEP THREE: Determine the greater of:

41 (A) the STEP TWO result minus the STEP ONE result; or

42 (B) zero (0).

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STEP FOUR: Determine the lesser of:

- (A) the STEP THREE result; or**
- (B) seven hundred sixty-two dollars (\$762).**

(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 compensation for a temporary total disability or a temporary partial disability into disabled from trade compensation by filing a copy of the notice required under subsection (d) with the board.

SECTION 15. IC 22-3-7-19, AS AMENDED BY P.L.31-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: 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

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- 1 (B) not less than seventy-five dollars (\$75);
2 (5) on and after July 1, 1980, and before July 1, 1983, the average
3 weekly wages are considered to be:
4 (A) not more than two hundred ten dollars (\$210); and
5 (B) not less than seventy-five dollars (\$75);
6 (6) on and after July 1, 1983, and before July 1, 1984, the average
7 weekly wages are considered to be:
8 (A) not more than two hundred thirty-four dollars (\$234); and
9 (B) not less than seventy-five dollars (\$75); and
10 (7) on and after July 1, 1984, and before July 1, 1985, the average
11 weekly wages are considered to be:
12 (A) not more than two hundred forty-nine dollars (\$249); and
13 (B) not less than seventy-five dollars (\$75).
14 (b) In computing compensation for temporary total disability,
15 temporary partial disability, and total permanent disability, with respect
16 to occupational diseases occurring on and after July 1, 1985, and before
17 July 1, 1986, the average weekly wages are considered to be:
18 (1) not more than two hundred sixty-seven dollars (\$267); and
19 (2) not less than seventy-five dollars (\$75).
20 (c) In computing compensation for temporary total disability,
21 temporary partial disability, and total permanent disability, with respect
22 to occupational diseases occurring on and after July 1, 1986, and before
23 July 1, 1988, the average weekly wages are considered to be:
24 (1) not more than two hundred eighty-five dollars (\$285); and
25 (2) not less than seventy-five dollars (\$75).
26 (d) In computing compensation for temporary total disability,
27 temporary partial disability, and total permanent disability, with respect
28 to occupational diseases occurring on and after July 1, 1988, and before
29 July 1, 1989, the average weekly wages are considered to be:
30 (1) not more than three hundred eighty-four dollars (\$384); and
31 (2) not less than seventy-five dollars (\$75).
32 (e) In computing compensation for temporary total disability,
33 temporary partial disability, and total permanent disability, with respect
34 to occupational diseases occurring on and after July 1, 1989, and before
35 July 1, 1990, the average weekly wages are considered to be:
36 (1) not more than four hundred eleven dollars (\$411); and
37 (2) not less than seventy-five dollars (\$75).
38 (f) In computing compensation for temporary total disability,
39 temporary partial disability, and total permanent disability, with respect
40 to occupational diseases occurring on and after July 1, 1990, and before
41 July 1, 1991, the average weekly wages are considered to be:
42 (1) not more than four hundred forty-one dollars (\$441); and

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- 1 (2) not less than seventy-five dollars (\$75).
- 2 (g) In computing compensation for temporary total disability,
- 3 temporary partial disability, and total permanent disability, with respect
- 4 to occupational diseases occurring on and after July 1, 1991, and before
- 5 July 1, 1992, the average weekly wages are considered to be:
- 6 (1) not more than four hundred ninety-two dollars (\$492); and
- 7 (2) not less than seventy-five dollars (\$75).
- 8 (h) In computing compensation for temporary total disability,
- 9 temporary partial disability, and total permanent disability, with respect
- 10 to occupational diseases occurring on and after July 1, 1992, and before
- 11 July 1, 1993, the average weekly wages are considered to be:
- 12 (1) not more than five hundred forty dollars (\$540); and
- 13 (2) not less than seventy-five dollars (\$75).
- 14 (i) In computing compensation for temporary total disability,
- 15 temporary partial disability, and total permanent disability, with respect
- 16 to occupational diseases occurring on and after July 1, 1993, and before
- 17 July 1, 1994, the average weekly wages are considered to be:
- 18 (1) not more than five hundred ninety-one dollars (\$591); and
- 19 (2) not less than seventy-five dollars (\$75).
- 20 (j) In computing compensation for temporary total disability,
- 21 temporary partial disability and total permanent disability, with respect
- 22 to occupational diseases occurring on and after July 1, 1994, and before
- 23 July 1, 1997, the average weekly wages are considered to be:
- 24 (1) not more than six hundred forty-two dollars (\$642); and
- 25 (2) not less than seventy-five dollars (\$75).
- 26 (k) In computing compensation for temporary total disability,
- 27 temporary partial disability, and total permanent disability, the average
- 28 weekly wages are considered to be:
- 29 (1) with respect to occupational diseases occurring on and after
- 30 July 1, 1997, and before July 1, 1998:
- 31 (A) not more than six hundred seventy-two dollars (\$672); and
- 32 (B) not less than seventy-five dollars (\$75);
- 33 (2) with respect to occupational diseases occurring on and after
- 34 July 1, 1998, and before July 1, 1999:
- 35 (A) not more than seven hundred two dollars (\$702); and
- 36 (B) not less than seventy-five dollars (\$75);
- 37 (3) with respect to occupational diseases occurring on and after
- 38 July 1, 1999, and before July 1, 2000:
- 39 (A) not more than seven hundred thirty-two dollars (\$732);
- 40 and
- 41 (B) not less than seventy-five dollars (\$75);
- 42 (4) with respect to occupational diseases occurring on and after

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- 1 July 1, 2000, and before July 1, 2001:
- 2 (A) not more than seven hundred sixty-two dollars (\$762); and
- 3 (B) not less than seventy-five dollars (\$75);
- 4 (5) with respect to ~~disablements~~ **occupational diseases** occurring
- 5 on and after July 1, 2001, and before July 1, 2002:
- 6 (A) not more than eight hundred twenty-two dollars (\$822);
- 7 and
- 8 (B) not less than seventy-five dollars (\$75); ~~and~~
- 9 (6) with respect to ~~disablements~~ **occupational diseases** occurring
- 10 on and after July 1, 2002, **and before July 1, 2003:**
- 11 (A) not more than eight hundred eighty-two dollars (\$882);
- 12 and
- 13 (B) not less than seventy-five dollars (\$75); **and**
- 14 **(7) with respect to occupational diseases occurring on and**
- 15 **after July 1, 2003:**
- 16 **(A) not more than nine hundred forty-two dollars (\$942);**
- 17 **and**
- 18 **(B) not less than seventy-five dollars (\$75).**
- 19 (l) The maximum compensation that shall be paid for occupational
- 20 disease and its results under any one (1) or more provisions of this
- 21 chapter with respect to disability or death occurring:
- 22 (1) on and after July 1, 1974, and before July 1, 1976, shall not
- 23 exceed forty-five thousand dollars (\$45,000) in any case;
- 24 (2) on and after July 1, 1976, and before July 1, 1977, shall not
- 25 exceed fifty-two thousand dollars (\$52,000) in any case;
- 26 (3) on and after July 1, 1977, and before July 1, 1979, may not
- 27 exceed sixty thousand dollars (\$60,000) in any case;
- 28 (4) on and after July 1, 1979, and before July 1, 1980, may not
- 29 exceed sixty-five thousand dollars (\$65,000) in any case;
- 30 (5) on and after July 1, 1980, and before July 1, 1983, may not
- 31 exceed seventy thousand dollars (\$70,000) in any case;
- 32 (6) on and after July 1, 1983, and before July 1, 1984, may not
- 33 exceed seventy-eight thousand dollars (\$78,000) in any case; and
- 34 (7) on and after July 1, 1984, and before July 1, 1985, may not
- 35 exceed eighty-three thousand dollars (\$83,000) in any case.
- 36 (m) The maximum compensation with respect to disability or death
- 37 occurring on and after July 1, 1985, and before July 1, 1986, which
- 38 shall be paid for occupational disease and the results thereof under the
- 39 provisions of this chapter or under any combination of its provisions
- 40 may not exceed eighty-nine thousand dollars (\$89,000) in any case.
- 41 The maximum compensation with respect to disability or death
- 42 occurring on and after July 1, 1986, and before July 1, 1988, which

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

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

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

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

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

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

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

42 (t) The maximum compensation that shall be paid for occupational

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1 disease and the results of an occupational disease under this chapter or
 2 under any combination of the provisions of this chapter, **subject to**
 3 **section 21 of this chapter**, may not exceed the following amounts in
 4 any case:

5 (1) With respect to disability or death occurring on and after July
 6 1, 1997, and before July 1, 1998, two hundred twenty-four
 7 thousand dollars (\$224,000).

8 (2) With respect to disability or death occurring on and after July
 9 1, 1998, and before July 1, 1999, two hundred thirty-four
 10 thousand dollars (\$234,000).

11 (3) With respect to disability or death occurring on and after July
 12 1, 1999, and before July 1, 2000, two hundred forty-four thousand
 13 dollars (\$244,000).

14 (4) With respect to disability or death occurring on and after July
 15 1, 2000, and before July 1, 2001, two hundred fifty-four thousand
 16 dollars (\$254,000).

17 (5) With respect to disability or death occurring on and after July
 18 1, 2001, and before July 1, 2002, two hundred seventy-four
 19 thousand dollars (\$274,000).

20 (6) With respect to disability or death occurring on and after July
 21 1, 2002, two hundred ninety-four thousand dollars (\$294,000).

22 (u) For all disabilities occurring before July 1, 1985, "average
 23 weekly wages" shall mean the earnings of the injured employee in the
 24 employment in which the employee was working at the time of the last
 25 exposure during the period of fifty-two (52) weeks immediately
 26 preceding the last day of the last exposure divided by fifty-two (52). If
 27 the employee lost seven (7) or more calendar days during the period,
 28 although not in the same week, then the earnings for the remainder of
 29 the fifty-two (52) weeks shall be divided by the number of weeks and
 30 parts thereof remaining after the time lost has been deducted. Where
 31 the employment prior to the last day of the last exposure extended over
 32 a period of less than fifty-two (52) weeks, the method of dividing the
 33 earnings during that period by the number of weeks and parts thereof
 34 during which the employee earned wages shall be followed if results
 35 just and fair to both parties will be obtained. Where by reason of the
 36 shortness of the time during which the employee has been in the
 37 employment of the employer or of the casual nature or terms of the
 38 employment it is impracticable to compute the average weekly wages
 39 as above defined, regard shall be had to the average weekly amount
 40 which, during the fifty-two (52) weeks previous to the last day of the
 41 last exposure, was being earned by a person in the same grade
 42 employed at the same work by the same employer, or if there is no

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1 person so employed, by a person in the same grade employed in that
 2 same class of employment in the same district. Whenever allowances
 3 of any character are made to an employee in lieu of wages or a
 4 specified part of the wage contract, they shall be deemed a part of the
 5 employee's earnings.

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

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

39 **(x) Each payment of monetary compensation due under this**
 40 **section shall be reduced by fifteen percent (15%) for an**
 41 **occupational disease or a death resulting from an occupational**
 42 **disease caused in any degree by the employee's intentional:**



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- 1 **(1) failure to use a safety appliance furnished by the**
- 2 **employer; or**
- 3 **(2) failure to obey a lawful order or administrative regulation**
- 4 **of:**
- 5 **(A) the worker's compensation board; or**
- 6 **(B) the employer;**
- 7 **for the safety of the employees or the public.**

8 **(y) Each payment of monetary compensation allowed under this**
 9 **section shall be increased by thirty percent (30%) for an**
 10 **occupational disease or a death resulting from an occupational**
 11 **disease caused in any degree by the employer's intentional failure**
 12 **to comply with a statute or administrative regulation regarding**
 13 **safety methods or installation or maintenance of safety appliances**
 14 **that has been communicated to the employer.**

15 SECTION 16. IC 22-3-7-21 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 21. (a) No
 17 compensation is allowed for any condition of physical or mental
 18 ill-being, disability, disablement, or death for which compensation is
 19 recoverable on account of accidental injury under chapters 2 through
 20 6 of this article.

21 (b) No compensation is allowed for any disease or death knowingly
 22 self-inflicted by the employee, or due to:

- 23 **(1) his intoxication;**
- 24 **(2) his commission of an offense; his knowing failure to use a**
- 25 **safety appliance;**
- 26 **(3) his knowing failure to obey a reasonable written or printed**
- 27 **rule of the employer which has been posted in a conspicuous**
- 28 **position in the place of work; or**
- 29 **(4) his knowing failure to perform any statutory duty.**

30 The burden of proof is on the defendant.

31 **(c) Each payment of monetary compensation allowed under**
 32 **sections 16 and 19 of this chapter shall be reduced by fifteen**
 33 **percent (15%) for an occupational disease or a death resulting**
 34 **from an occupational disease caused in any degree by the**
 35 **employee's intentional:**

- 36 **(1) failure to use a safety appliance furnished by the**
- 37 **employer; or**
- 38 **(2) failure to obey a lawful order or administrative regulation**
- 39 **of:**
- 40 **(A) the worker's compensation board; or**
- 41 **(B) the employer;**
- 42 **for the safety of the employees or the public.**



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1 (d) Each payment of monetary compensation allowed under
2 sections 16 and 19 of this chapter shall be increased by thirty
3 percent (30%) for a disease or death caused in any degree by the
4 employer's intentional failure to comply with a statute or
5 administrative regulation that has been communicated to the
6 employer regarding safety methods or installation or maintenance
7 of safety appliances.

8 (3) his knowing willful failure to use a safety appliance;

9 (4) his knowing willful failure to obey a reasonable written or
10 printed rule of the employer which has been posted in a
11 conspicuous position in the place of work; or

12 (5) his knowing willful failure to perform any statutory duty.

13 The burden of proof is on the defendant.

14 SECTION 17. IC 22-3-7-27, AS AMENDED BY P.L.235-1999,
15 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2002]: Sec. 27. (a) If the employer and the employee or the
17 employee's dependents disagree in regard to the compensation payable
18 under this chapter, or, if they have reached such an agreement, which
19 has been signed by them, filed with and approved by the worker's
20 compensation board, and afterward disagree as to the continuance of
21 payments under such agreement, or as to the period for which payments
22 shall be made, or as to the amount to be paid, because of a change in
23 conditions since the making of such agreement, either party may then
24 make an application to the board for the determination of the matters
25 in dispute. When compensation which is payable in accordance with an
26 award or by agreement approved by the board is ordered paid in a lump
27 sum by the board, no review shall be had as in this subsection
28 mentioned.

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

31 (1) The approximate date of the last day of the last exposure and
32 the approximate date of the disablement.

33 (2) The general nature and character of the illness or disease
34 claimed.

35 (3) The name and address of the employer by whom employed on
36 the last day of the last exposure, and if employed by any other
37 employer after such last exposure and before disablement, the
38 name and address of such other employer or employers.

39 (4) In case of death, the date and place of death.

40 (5) Amendments to applications making claim for compensation
41 which relate to the same disablement or disablement resulting in
42 death originally claimed upon may be allowed by the board in its

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1 discretion, and, in the exercise of such discretion, it may, in
2 proper cases, order a trial de novo. Such amendment shall relate
3 back to the date of the filing of the original application so
4 amended.

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

15 (d) The board by any or all of its members shall hear the parties at
16 issue, their representatives, and witnesses, and shall determine the
17 dispute in a summary manner. The award shall be filed with the record
18 of proceedings, and a copy thereof shall immediately be sent by
19 registered mail to each of the parties in dispute.

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

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



1 at the earliest practicable date, without any extensions of time for filing
 2 briefs. An award of the full board affirmed on appeal, by the employer,
 3 shall be increased thereby five percent (5%), and by order of the court
 4 may be increased ten percent (10%).

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

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

29 (i) The power and jurisdiction of the worker's compensation board
 30 over each case shall be continuing, and, from time to time, it may, upon
 31 its own motion or upon the application of either party on account of a
 32 change in conditions, make such modification or change in the award
 33 ending, lessening, continuing, or extending the payments previously
 34 awarded, either by agreement or upon hearing, as it may deem just,
 35 subject to the maximum and minimum provided for in this chapter.
 36 When compensation which is payable in accordance with an award or
 37 settlement contract approved by the board is ordered paid in a lump
 38 sum by the board, no review shall be had as in this subsection
 39 mentioned. Upon making any such change, the board shall immediately
 40 send to each of the parties a copy of the modified award. No such
 41 modification shall affect the previous award as to any money paid
 42 thereunder. The board shall not make any such modification upon its

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1 own motion, nor shall any application therefor be filed by either party
2 after the expiration of two (2) years from the last day for which
3 compensation was paid under the original award made either by
4 agreement or upon hearing, except that applications for increased
5 permanent partial impairment are barred unless filed within one (1)
6 year from the last day for which compensation was paid. The board
7 may at any time correct any clerical error in any finding or award.

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

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

27 (l) Whenever any claimant misconceives the claimant's remedy and
28 files an application for adjustment of a claim under IC 22-3-2 through
29 IC 22-3-6 and it is subsequently discovered, at any time before the final
30 disposition of such cause, that the claim for injury or death which was
31 the basis for such application should properly have been made under
32 the provisions of this chapter, then the application so filed under
33 IC 22-3-2 through IC 22-3-6 may be amended in form or substance or
34 both to assert a claim for such disability or death under the provisions
35 of this chapter, and it shall be deemed to have been so filed as amended
36 on the date of the original filing thereof, and such compensation may
37 be awarded as is warranted by the whole evidence pursuant to the
38 provisions of this chapter. When such amendment is submitted, further
39 or additional evidence may be heard by the worker's compensation
40 board when deemed necessary. Nothing in this section contained shall
41 be construed to be or permit a waiver of any of the provisions of this
42 chapter with reference to notice or time for filing a claim, but notice of

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1 filing of a claim, if given or done, shall be deemed to be a notice or
2 filing of a claim under the provisions of this chapter if given or done
3 within the time required in this chapter.

4 SECTION 18. IC 22-4-2-12 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. **(a) Except as**
6 **provided in subsections (b) and (c), "base period" means the first four**
7 **(4) of the last five (5) completed calendar quarters immediately**
8 **preceding the first day of an individual's benefit period. ~~Provided,~~**
9 **However, ~~That~~ for a claim computed in accordance with IC ~~1971,~~**
10 **22-4-22, the base period shall be the base period as outlined in the**
11 **paying state's law.**

12 **(b) Effective July 1, 2002, "base period" also includes, in the case**
13 **of an individual who does not have sufficient wages in the base**
14 **period as set forth in subsection (a), the last four (4) completed**
15 **calendar quarters immediately preceding the first day of the**
16 **benefit year of the individual if the period qualifies the individual**
17 **for benefits under this chapter. Wages that fall within the base**
18 **period of claims established under this subsection are not available**
19 **for reuse in qualifying for a subsequent benefit year.**

20 **(c) In the case of a combined wage claim under an arrangement**
21 **approved by the United States Secretary of Labor, the base period**
22 **is the period applicable under the unemployment compensation**
23 **law of the paying state.**

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

29 SECTION 19. IC 22-4-2-12.5 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12.5. **(a)**
31 **Notwithstanding section 12 of this chapter, for an individual who**
32 **during the "base period" as defined in that section has received**
33 **worker's compensation benefits under IC 22-3-3 for a period of**
34 **fifty-two (52) weeks or less, and as a result has not earned sufficient**
35 **wage credits to meet the requirements of IC 22-4-14-5, "base period"**
36 **means the first four (4) of the last five (5) completed calendar quarters**
37 **immediately preceding the last day that the individual was able to**
38 **work, as a result of the individual's injury.**

39 **(b) The provisions of section 12(b), 12(c), and 12(d) of this**
40 **chapter apply beginning July 1, 2002.**

41 SECTION 20. IC 22-4-2-22 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 22. "Valid claim"

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1 means a claim filed by an individual who has established qualifying
 2 wage credits and who is totally, partially, or part-totally unemployed;
 3 Provided, no individual in a benefit period may file a valid claim for a
 4 ~~waiting period or~~ benefit period rights with respect to any period
 5 subsequent to the expiration of such benefit period.

6 SECTION 21. IC 22-4-2-29 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 29. "Insured
 8 unemployment" means unemployment during a given week for which
 9 waiting period credit or benefits, **if applicable**, are claimed under the
 10 state employment security program, the unemployment compensation
 11 for federal employees program, the unemployment compensation for
 12 veterans program, or the railroad unemployment insurance program.

13 SECTION 22. IC 22-4-4-3, AS AMENDED BY P.L.30-2000,
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2002]: Sec. 3. (a) For calendar quarters beginning on and after
 16 April 1, 1979, and before April 1, 1984, "wage credits" means
 17 remuneration paid for employment by an employer to an individual.
 18 Wage credits may not exceed three thousand six hundred sixty-six
 19 dollars (\$3,666) and may not include payments specified in section
 20 2(b) of this chapter.

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

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

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

36 (e) For calendar quarters beginning on and after July 1, 1995, and
 37 before July 1, 1997, "wage credits" means remuneration paid for
 38 employment by an employer to an individual and remuneration
 39 received as tips or gratuities in accordance with Sections 3102 and
 40 3301 et seq. of the Internal Revenue Code. Wage credits may not
 41 exceed five thousand dollars (\$5,000) and may not include payments
 42 specified in section 2(b) of this chapter.



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

8 (g) For calendar quarters beginning on and after July 1, 1998, and
9 before July 1, 1999, "wage credits" means remuneration paid for
10 employment by an employer to an individual and remuneration
11 received as tips or gratuities in accordance with Sections 3102 and
12 3301 et seq. of the Internal Revenue Code. Wage credits may not
13 exceed five thousand six hundred dollars (\$5,600) and may not include
14 payments that are excluded from the definition of wages under section
15 2(b) of this chapter.

16 (h) For calendar quarters beginning on and after July 1, 1999, and
17 before July 1, 2000, "wage credits" means remuneration paid for
18 employment by an employer to an individual and remuneration
19 received as tips or gratuities in accordance with Sections 3102 and
20 3301 et seq. of the Internal Revenue Code. Wage credits may not
21 exceed five thousand eight hundred dollars (\$5,800) and may not
22 include payments that are excluded from the definition of wages under
23 section 2(b) of this chapter.

24 (i) For calendar quarters beginning on and after July 1, 2000, and
25 before July 1, 2001, "wage credits" means remuneration paid for
26 employment by an employer to an individual and remuneration
27 received as tips or gratuities in accordance with Sections 3102 and
28 3301 et seq. of the Internal Revenue Code. Wage credits may not
29 exceed six thousand seven hundred dollars (\$6,700) and may not
30 include payments that are excluded from the definition of wages under
31 section 2(b) of this chapter.

32 (j) For calendar quarters beginning on and after July 1, 2001, and
33 before July 1, 2002, "wage credits" means remuneration paid for
34 employment by an employer to an individual and remuneration
35 received as tips or gratuities in accordance with Sections 3102 and
36 3301 et seq. of the Internal Revenue Code. Wage credits may not
37 exceed seven thousand three hundred dollars (\$7,300) and may not
38 include payments that are excluded from the definition of wages under
39 section 2(b) of this chapter.

40 (k) For calendar quarters beginning on and after July 1, 2002, **and**
41 **before July 1, 2003**, "wage credits" means remuneration paid for
42 employment by an employer to an individual and remuneration

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1 received as tips or gratuities in accordance with Sections 3102 and
 2 3301 et seq. of the Internal Revenue Code. Wage credits may not
 3 exceed seven thousand nine hundred dollars (\$7,900) and may not
 4 include payments that are excluded from the definition of wages under
 5 section 2(b) of this chapter.

6 **(l) For calendar quarters beginning on and after July 1, 2003,**
 7 **"wage credits" means remuneration paid for employment by an**
 8 **employer to an individual and remuneration received as tips or**
 9 **gratuities in accordance with Sections 3102 and 3301 et seq. of the**
 10 **Internal Revenue Code. Wage credits may not exceed eight**
 11 **thousand five hundred dollars (\$8,500) and may not include**
 12 **payments that are excluded from the definition of wages under**
 13 **section 2(b) of this chapter.**

14 SECTION 23. IC 22-4-12-2, AS AMENDED BY P.L.235-1999,
 15 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2002]: Sec. 2. (a) With respect to initial claims filed for any
 17 week beginning on and after July 6, 1980, and before July 7, 1985,
 18 each eligible individual who is totally unemployed (as defined in
 19 IC 22-4-3-1) in any week in the individual's benefit period shall be paid
 20 for the week, if properly claimed, benefits at the rate of four and
 21 three-tenths percent (4.3%) of the individual's wage credits in the
 22 calendar quarter during the individual's base period in which the wage
 23 credits were highest. However, the weekly benefit amount may not
 24 exceed:

- 25 (1) eighty-four dollars (\$84) if the eligible and qualified
 26 individual has no dependents;
- 27 (2) ninety-nine dollars (\$99) if the eligible and qualified
 28 individual has one (1) dependent;
- 29 (3) one hundred thirteen dollars (\$113) if the eligible and
 30 qualified individual has two (2) dependents;
- 31 (4) one hundred twenty-eight dollars (\$128) if the eligible and
 32 qualified individual has three (3) dependents; or
- 33 (5) one hundred forty-one dollars (\$141) if the eligible and
 34 qualified individual has four (4) or more dependents.

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



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

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

- 19 (1) ninety-six dollars (\$96) if the eligible and qualified individual
- 20 has no dependents;
- 21 (2) one hundred thirteen dollars (\$113) if the eligible and
- 22 qualified individual has one (1) dependent;
- 23 (3) one hundred twenty-nine dollars (\$129) if the eligible and
- 24 qualified individual has two (2) dependents;
- 25 (4) one hundred forty-seven dollars (\$147) if the eligible and
- 26 qualified individual has three (3) dependents; or
- 27 (5) one hundred sixty-one dollars (\$161) if the eligible and
- 28 qualified individual has four (4) or more dependents.

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

32 For the purpose of this subsection and subsections (e) through (g),
 33 the term "dependent" means lawful husband or wife, natural child,
 34 adopted child, stepchild, if such stepchild is not receiving aid to
 35 dependent children under the welfare program, or child placed in the
 36 claimant's home for adoption by an authorized placement agency or a
 37 court of law, provided such child is under eighteen (18) years of age
 38 and that such dependent claimed has received more than one-half (1/2)
 39 the cost of support from the claimant during ninety (90) days (or for
 40 duration of relationship, if less) immediately preceding the claimant's
 41 benefit year beginning date, but only if such dependent who is the
 42 lawful husband or wife is unemployed and currently ineligible for

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1 Indiana benefits because of insufficient base period wages. The number
2 and status of dependents shall be determined as of the beginning of the
3 claimant's benefit period and shall not be changed during that benefit
4 period.

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

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

22 On and after July 6, 1980, and before July 7, 1991, if the weekly
23 benefit amount is less than forty dollars (\$40), the board, through the
24 commissioner, shall pay benefits at the rate of forty dollars (\$40) per
25 week. On and after July 7, 1991, if the weekly benefit amount is less
26 than fifty dollars (\$50), the board, through the commissioner, shall pay
27 benefits at the rate of fifty dollars (\$50) per week. If such weekly
28 benefit amount is not a multiple of one dollar (\$1), it shall be computed
29 to the next lower multiple of one dollar (\$1).

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



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1 provisions of this section.

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

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

- 12 (1) five percent (5%) of the first one thousand dollars (\$1,000) of
13 the individual's wage credits in the calendar quarter during the
14 individual's base period in which the wage credits were highest;
15 and
16 (2) four percent (4%) of the individual's remaining wage credits
17 in the calendar quarter during the individual's base period in
18 which the wage credits were highest.

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

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

- 24 (1) one hundred sixteen dollars (\$116) if the eligible and qualified
25 individual has no dependents;
26 (2) one hundred thirty-four dollars (\$134) if the eligible and
27 qualified individual has one (1) dependent;
28 (3) one hundred fifty-three dollars (\$153) if the eligible and
29 qualified individual has two (2) dependents; or
30 (4) one hundred seventy-one dollars (\$171) if the eligible and
31 qualified individual has three (3) or more dependents.

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

- 35 (1) one hundred forty dollars (\$140) if the eligible and qualified
36 individual has no dependents;
37 (2) one hundred sixty dollars (\$160) if the eligible and qualified
38 individual has one (1) dependent; or
39 (3) one hundred eighty-one dollars (\$181) if the eligible and
40 qualified individual has two (2) or more dependents.

41 (g) With respect to initial claims filed for any week beginning on
42 and after July 4, 1993, and before July 3, 1994, the weekly benefit

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amount may not exceed:

- (1) one hundred seventy dollars (\$170) if the eligible and qualified individual has no dependents; or
- (2) one hundred ninety-two dollars (\$192) if the eligible and qualified individual has one (1) or more dependents.

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

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

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

- (1) five percent (5%) of the first one thousand seven hundred fifty dollars (\$1,750) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest; and
- (2) four percent (4%) of the individual's remaining wage credits in the calendar quarter during the individual's base period in which the wage credits were highest.

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

(k) With respect to initial claims filed for any week beginning on and after July 1, 1997, **and before July 1, 2004**, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid for the week, if properly claimed, benefits at the rate of:

- (1) five percent (5%) of the first two thousand dollars (\$2,000) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest; and
- (2) four percent (4%) of the individual's remaining wage credits in the calendar quarter during the individual's base period in which the wage credits were highest.

(l) With respect to initial claims filed for any week beginning on and after July 1, 2004, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid if properly claimed

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according to the following:

(1) The weekly benefit amount shall be four and one-sixth percent (4 1/6%) of the average quarterly wages of the individual's total wages during the two (2) quarters of the individual's base year in which the individual's total wages were highest.

(2) The following maximum and minimum amounts payable each week shall be determined as of June 30 of each year in order to apply to a benefit year beginning in the twelve (12) month period immediately following June 30:

(A) The maximum amount payable each week shall be fifty percent (50%) of the average weekly wage for the period beginning January 1 and ending June 30 of the current year.

(B) The minimum amount payable each week shall be fifteen percent (15%) of the average weekly wage for the period beginning January 1 and ending June 30 of the current year.

SECTION 24. IC 22-4-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. As a condition precedent to the payment of benefits to an individual with respect to any week such individual shall be required to serve a waiting period of one (1) week in which he has been totally, partially or part-totally unemployed and with respect to which he has received no benefits, but during which he was eligible for benefits in all other respects and was not otherwise ineligible for benefits under any provisions of this article. Such waiting period shall be a week in the individual's benefit period and during such week such individual shall be physically and mentally able to work and available for work. ~~No~~ An individual in a benefit period may ~~not~~ file for ~~waiting period or~~ benefit period rights with respect to any subsequent period. ~~Provided, however, That no waiting period shall be required as a prerequisite for drawing extended benefits.~~

SECTION 25. IC 22-4-14-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) **Except for benefits due under IC 22-4-15-3.5**, for weeks of unemployment occurring after October 1, 1983, benefits may be paid to an individual on the basis of service performed in seasonal employment (as defined in IC 22-4-8-4) only if the claim is filed within the operating period of the seasonal employment. If the claim is filed outside the operating period of the seasonal employment, benefits may be paid on the basis of nonseasonal wages only.

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

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

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

14 (1) The seasonal determination becomes effective the first day of
 15 the calendar quarter commencing after the date of the seasonal
 16 determination.

17 (2) The seasonal determination does not affect any benefit rights
 18 of seasonal workers with respect to employment before the
 19 effective date of the seasonal determination.

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

30 (f) Seasonal employers shall keep account of wages paid to seasonal
 31 workers within the seasonal period as determined by the department
 32 and shall report these wages on a special seasonal quarterly report form
 33 provided by the department.

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

36 SECTION 26. IC 22-4-15-1, AS AMENDED BY P.L.290-2001,
 37 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2002]: Sec. 1. (a) With respect to benefit periods established
 39 on and after July 6, 1980, an individual who has voluntarily left the
 40 individual's most recent employment without good cause in connection
 41 with the work or who was discharged from the individual's most recent
 42 employment for just cause is ineligible for ~~waiting period~~ or benefit

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1 rights for the week in which the disqualifying separation occurred and
 2 until the individual has earned remuneration in employment equal to
 3 or exceeding the weekly benefit amount of the individual's claim in
 4 each of eight (8) weeks. If the qualification amount has not been earned
 5 at the expiration of an individual's benefit period, the unearned amount
 6 shall be carried forward to an extended benefit period or to the benefit
 7 period of a subsequent claim.

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

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

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

21 (A) the individual left to accept with another employer
 22 previously secured permanent full-time work which offered
 23 reasonable expectation of continued covered employment and
 24 betterment of wages or working conditions; and thereafter was
 25 employed on said job;

26 (B) having been simultaneously employed by two (2)
 27 employers, the individual leaves one (1) such employer
 28 voluntarily without good cause in connection with the work
 29 but remains in employment with the second employer with a
 30 reasonable expectation of continued employment; or

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

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

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

41 (4) An individual whose employment is terminated under the
 42 compulsory retirement provision of a collective bargaining

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1 agreement to which the employer is a party, or under any other
 2 plan, system, or program, public or private, providing for
 3 compulsory retirement and who is otherwise eligible shall not be
 4 deemed to have left the individual's work voluntarily without
 5 good cause in connection with the work. However, if such
 6 individual subsequently becomes reemployed and thereafter
 7 voluntarily leaves work without good cause in connection with the
 8 work, the individual shall be deemed ineligible as outlined in this
 9 section.

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

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

- 28 (A) the employment was outside the individual's labor market;
- 29 (B) the individual left to accept previously secured full-time
 30 work with an employer in the individual's labor market; and
- 31 (C) the individual actually became employed with the
 32 employer in the individual's labor market.

33 (7) An individual who, but for the voluntary separation to move
 34 to another labor market to join a spouse who had moved to that
 35 labor market, shall not be disqualified for that voluntary
 36 separation, if the individual is otherwise eligible for benefits.
 37 Benefits paid to the spouse whose eligibility is established under
 38 this subdivision shall not be charged against the employer from
 39 whom the spouse voluntarily separated.

40 **(8) An individual who is an affected employee (as defined in**
 41 **IC 22-4-43-1(1)) and is subject to the work sharing**
 42 **unemployment insurance program under IC 22-4-43 is not**

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1 **disqualified for participating in the work sharing**
2 **unemployment insurance program.**

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

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

- 10 (1) separation initiated by an employer for falsification of an
- 11 employment application to obtain employment through
- 12 subterfuge;
- 13 (2) knowing violation of a reasonable and uniformly enforced rule
- 14 of an employer;
- 15 (3) unsatisfactory attendance, if the individual cannot show good
- 16 cause for absences or tardiness;
- 17 (4) damaging the employer's property through willful negligence;
- 18 (5) refusing to obey instructions;
- 19 (6) reporting to work under the influence of alcohol or drugs or
- 20 consuming alcohol or drugs on employer's premises during
- 21 working hours;
- 22 (7) conduct endangering safety of self or coworkers; or
- 23 (8) incarceration in jail following conviction of a misdemeanor or
- 24 felony by a court of competent jurisdiction or for any breach of
- 25 duty in connection with work which is reasonably owed an
- 26 employer by an employee.

27 SECTION 27. IC 22-4-15-2, AS AMENDED BY P.L.290-2001,
28 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2002]: Sec. 2. (a) With respect to benefit periods established
30 on and after July 3, 1977, an individual is ineligible for ~~waiting period~~
31 ~~or~~ benefit rights, or extended benefit rights, if the department finds that,
32 being totally, partially, or part-totally unemployed at the time when the
33 work offer is effective or when the individual is directed to apply for
34 work, the individual fails without good cause:

- 35 (1) to apply for available, suitable work when directed by the
- 36 commissioner, the deputy, or an authorized representative of the
- 37 department of workforce development or the United States
- 38 training and employment service;
- 39 (2) to accept, at any time after the individual is notified of a
- 40 separation, suitable work when found for and offered to the
- 41 individual by the commissioner, the deputy, or an authorized
- 42 representative of the department of workforce development or the

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1 United States training and employment service, or an employment
2 unit; or

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

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

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

18 (d) If an individual failed to apply for or accept suitable work as
19 outlined in this section, the maximum benefit amount of the
20 individual's current claim, as initially determined, shall be reduced by
21 twenty-five percent (25%). If twenty-five percent (25%) of the
22 maximum benefit amount is not an even dollar amount, the amount of
23 such reduction shall be raised to the next higher even dollar amount.
24 The maximum benefit amount of the individual's current claim may not
25 be reduced by more than twenty-five percent (25%) during any benefit
26 period or extended benefit period.

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

- 29 (1) the degree of risk involved to such individual's health, safety,
30 and morals;
31 (2) the individual's physical fitness and prior training and
32 experience;
33 (3) the individual's length of unemployment and prospects for
34 securing local work in the individual's customary occupation; and
35 (4) the distance of the available work from the individual's
36 residence.

37 However, work under substantially the same terms and conditions
38 under which the individual was employed by a base-period employer,
39 which is within the individual's prior training and experience and
40 physical capacity to perform, shall be considered to be suitable work
41 unless the claimant has made a bona fide change in residence which
42 makes such offered work unsuitable to the individual because of the

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distance involved.

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

- (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.
- (2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.
- (3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.
- (4) If as a condition of being employed the individual would be required to discontinue training into which the individual had entered with the approval of the department.

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

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

- (1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:
 - (A) the individual's average weekly benefit amount for the individual's benefit year; plus
 - (B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.
- (2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.
- (3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

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1 (4) If the position pays wages less than the higher of:
 2 (A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The
 3 Fair Labor Standards Act of 1938), without regard to any
 4 exemption; or
 5 (B) the state minimum wage (IC 22-2-2).
 6 (i) The department of workforce development shall refer individuals
 7 eligible for extended benefits to any suitable work (as defined in
 8 subsection (g)) to which subsection (h) would not apply.
 9 SECTION 28. IC 22-4-15-3 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. **(a) Except as**
 11 **provided in section 3.5 of this chapter**, an individual shall be
 12 ineligible for ~~waiting period~~ or benefit rights for any week with respect
 13 to which ~~his~~ **the individual's** total or partial or part-total
 14 unemployment is due to a labor dispute at the factory, establishment,
 15 or other premises at which ~~he~~ **the individual** was last employed.
 16 (b) This section shall not apply to an individual if:
 17 **(1) ~~he~~ the individual** has terminated ~~his~~ **the individual's**
 18 employment, or ~~his~~ **the individual's** employment has been
 19 terminated, with the employer involved in the labor dispute; ~~or if~~
 20 **(2) the** labor dispute which caused ~~his~~ **the individual's**
 21 unemployment has terminated and any period necessary to resume
 22 normal activities at ~~his~~ **the individual's** place of employment has
 23 elapsed; or ~~if~~
 24 **(3) all of the following conditions exist: He**
 25 **(A) The individual** is not participating in or financing or
 26 directly interested in the labor dispute which caused ~~his~~ **the**
 27 **individual's** unemployment. ~~and he~~
 28 **(B) The individual** does not belong to a grade or class of
 29 workers of which, immediately before the commencement of
 30 ~~his~~ **the individual's** unemployment, there were members
 31 employed at the same premises as ~~he~~; **the individual**, any of
 32 whom are participating in or financing or directly interested in
 33 the dispute. ~~and he~~
 34 **(C) The individual** has not voluntarily stopped working, other
 35 than at the direction of ~~his~~ **the worker's** employer, in
 36 sympathy with employees in some other establishment or
 37 factory in which a labor dispute is in progress.
 38 (c) If in any case separate branches of work which are commonly
 39 conducted as separate businesses in separate premises are conducted
 40 in separate departments of the same premises, each such department
 41 shall, for the purpose of this section, be deemed to be a separate
 42 factory, establishment, or other premises.

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

7 (e) Notwithstanding any other provisions of this article, an
 8 individual shall not be ineligible for ~~waiting period~~ or benefit rights
 9 under this section solely by reason of ~~his~~ **the individual's** failure or
 10 refusal to apply for or to accept recall to work or reemployment with an
 11 employer during the continuance of a labor dispute at the factory,
 12 establishment, or other premises of the employer, if the individual's last
 13 separation from the employer occurred prior to the start of the labor
 14 dispute and was permanent or for an indefinite period.

15 SECTION 29. IC 22-4-15-3.5 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2002]: **Sec. 3.5. (a) As used in this section,**
 18 **"shuts down operations" means the termination of business by the**
 19 **employer, whether due to:**

20 (1) a filing of a petition under 11 U.S.C. 501, 11U.S.C. 1201, or
 21 11U.S.C. 1301; or

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

24 (b) If the total or partial or part-total unemployment of an
 25 individual due to a labor dispute at the factory, establishment, or
 26 other premises at which the individual was last employed ends
 27 because the employer shuts down business and the individual
 28 continues to be totally, partially, or part-totaled unemployed, the
 29 individual is eligible for waiting period or benefit rights retroactive
 30 to the date of the individual's unemployment due to the labor
 31 dispute.

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

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

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



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- 1 **(1) has engaged in seasonal employment; and**
 2 **(2) has filed a claim for benefits outside the operating period**
 3 **of seasonal employment.**

4 **(f) The provisions of IC 22-4-14-3 apply only after the date that**
 5 **the employer shuts down business.**

6 **(g) The department may use the procedures as prescribed by**
 7 **IC 22-4-17-1 for the taking of claims in the instance of mass layoffs**
 8 **for claims made under this section.**

9 SECTION 30. IC 22-4-15-4, AS AMENDED BY P.L.290-2001,
 10 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2002]: Sec. 4. (a) An individual ~~shall be~~ **is** ineligible for
 12 ~~waiting period or~~ benefit rights for any week with respect to which the
 13 individual receives, is receiving, or has received payments equal to or
 14 exceeding ~~his~~ **the individual's** weekly benefit amount in the form of:

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

17 (2) any pension, retirement or annuity payments, under any plan
 18 of an employer whereby the employer contributes a portion or all
 19 of the money. This disqualification shall apply only if some or all
 20 of the benefits otherwise payable are chargeable to the experience
 21 or reimbursable account of ~~such~~ **the** employer, or would have
 22 been chargeable except for the application of this chapter. For ~~the~~
 23 purposes of this subdivision, ~~(2)~~; federal old age, survivors, and
 24 disability insurance benefits are not considered payments under
 25 a plan of an employer whereby the employer maintains the plan
 26 or contributes a portion or all of the money to the extent required
 27 by federal law.

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

32 (c) This section does not preclude an individual from delaying a
 33 claim to pension, retirement, or annuity payments until the individual
 34 has received the benefits to which the individual would otherwise be
 35 eligible under this chapter. Weekly benefits received before the date
 36 the individual elects to retire shall not be reduced by any pension,
 37 retirement, or annuity payments received on or after the date the
 38 individual elects to retire.

39 SECTION 31. IC 22-4-15-5 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. Except as provided
 41 in IC ~~1971~~, 22-4-22, an individual ~~shall be~~ **is** ineligible for ~~waiting~~
 42 ~~period or~~ benefit rights for any week with respect to which or a part of

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1 which ~~he~~ **the individual** receives, is receiving, has received or is
 2 seeking unemployment benefits under an unemployment compensation
 3 law of another state or of the United States. ~~Provided, that~~ **However,**
 4 this disqualification shall not apply if the appropriate agency of such
 5 other state or of the United States finally determines that ~~he~~ **the**
 6 **individual** is not entitled to such employment benefits, including
 7 benefits to federal civilian employees and ex-servicemen pursuant to
 8 5 U.S.C. Chapter 85.

9 SECTION 32. IC 22-4-16-1 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. Notwithstanding any
 11 other provisions of this article, if an individual knowingly fails to
 12 disclose amounts earned during any week in ~~his waiting period~~, **the**
 13 **individual's** benefit period or extended benefit period with respect to
 14 which benefit rights or extended benefit rights are claimed, or
 15 knowingly fails to disclose or has falsified as to any fact ~~which that~~
 16 would have disqualified ~~him~~ **the individual** or rendered ~~him~~ **the**
 17 **individual** ineligible for benefits or extended benefits or would have
 18 reduced ~~his~~ **the individual's** benefit rights or extended benefit rights
 19 during such a week, all of ~~his~~ **the individual's** wage credits established
 20 prior to the week of the falsification or failure to disclose shall be
 21 cancelled, and any benefits or extended benefits ~~which that~~ might
 22 otherwise have become payable to ~~him~~ **the individual** and any benefit
 23 rights or extended benefit rights based upon those wage credits shall be
 24 forfeited.

25 SECTION 33. IC 22-4-17-2, AS AMENDED BY P.L.290-2001,
 26 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2002]: Sec. 2. (a) When an individual files an initial claim, the
 28 department shall promptly make a determination of ~~his~~ **the**
 29 **individual's** status as an insured worker in a form prescribed by the
 30 board. A written notice of the determination of insured status shall be
 31 furnished ~~him~~ **to the individual** promptly. Each such determination
 32 shall be based on and include a written statement showing the amount
 33 of wages paid to the individual for insured work by each employer
 34 during the individual's base period and shall include a finding as to
 35 whether such wages meet the requirements for the individual to be an
 36 insured worker, and, if so, the week ending date of the first week of the
 37 individual's benefit period, the individual's weekly benefit amount, and
 38 the maximum amount of benefits that may be paid to the individual for
 39 weeks of unemployment in the individual's benefit period. For the
 40 individual who is not insured, the notice shall include the reason for the
 41 determination. Unless the individual, within twenty (20) days after such
 42 determination was mailed to the individual's last known address, or

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1 otherwise delivered to the individual, asks a hearing thereon before an
2 administrative law judge, such determination shall be final and benefits
3 shall be paid or denied in accordance therewith.

4 (b) The department shall promptly furnish each employer in the base
5 period whose experience or reimbursable account is potentially
6 chargeable with benefits to be paid to such individual with a notice in
7 writing of the employer's benefit liability. Such notice shall contain the
8 date, the name and social security account number of the individual,
9 the ending date of the individual's base period, and the week ending
10 date of the first week of the individual's benefit period. Such notice
11 shall further contain information as to the proportion of benefits
12 chargeable to the employer's experience or reimbursable account in
13 ratio to the earnings of such individual from such employer. Unless the
14 employer, within twenty (20) days after such notice of benefit liability
15 was mailed to the employer's last known address, or otherwise
16 delivered to the employer, asks a hearing thereon before an
17 administrative law judge, such determination shall be final and benefits
18 paid shall be charged in accordance therewith.

19 (c) An employing unit, including an employer, having knowledge
20 of any facts which may affect an individual's eligibility or right to
21 waiting period credits or benefits, shall notify the department of such
22 facts within twenty (20) days after the mailing of notice that a former
23 employee has filed an initial or additional claim for benefits on a form
24 prescribed by the board.

25 (d) In addition to the foregoing determination of insured status by
26 the department, the deputy shall, throughout the benefit period,
27 determine the claimant's eligibility with respect to each week for which
28 the claimant claims ~~waiting period credit~~ or benefit rights, the validity
29 of the claimant's claim therefor, and the cause for which the claimant
30 left the claimant's work, or may refer such claim to an administrative
31 law judge who shall make the initial determination with respect thereto
32 in accordance with the procedure in IC 22-4-17-3.

33 (e) In cases where the claimant's benefit eligibility or
34 disqualification is disputed, the department shall promptly notify the
35 claimant and the employer or employers directly involved or connected
36 with the issue raised as to the validity of such claim, the eligibility of
37 the claimant for ~~waiting period credit~~ or benefits, or the imposition of
38 a disqualification period or penalty, or the denial thereof, and of the
39 cause for which the claimant left the claimant's work, of such
40 determination and the reasons thereof. Except as otherwise hereinafter
41 provided in this subsection regarding parties located in Alaska, Hawaii,
42 and Puerto Rico, unless the claimant or such employer, within twenty

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1 (20) days after such notification was mailed to the claimant's or the
 2 employer's last known address, or otherwise delivered to the claimant
 3 or the employer, asks a hearing before an administrative law judge
 4 thereon, such decision shall be final and benefits shall be paid or
 5 denied in accordance therewith. With respect to notice of disputed
 6 administrative determination or decision mailed or otherwise delivered
 7 to the claimant or employer either of whom is located in Alaska,
 8 Hawaii, or Puerto Rico, unless such claimant or employer, within
 9 twenty-five (25) days after such notification was mailed to the
 10 claimant's or employer's last known address or otherwise delivered to
 11 the claimant or employer, asks a hearing before an administrative law
 12 judge thereon, such decision shall be final and benefits shall be paid or
 13 denied in accordance therewith. If such hearing is desired, the request
 14 therefor shall be filed with the commissioner in writing within the
 15 prescribed periods as above set forth in this subsection and shall be in
 16 such form as the board may prescribe. In the event a hearing is
 17 requested by an employer or the department after it has been
 18 administratively determined that benefits should be allowed to a
 19 claimant, entitled benefits shall continue to be paid to said claimant
 20 unless said administrative determination has been reversed by a due
 21 process hearing. Benefits with respect to any week not in dispute shall
 22 be paid promptly regardless of any appeal.

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

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

36 (h) Notice to the employer and the claimant that the determination
 37 of the department is final if a hearing is not requested shall be
 38 prominently displayed on the notice of the determination which is sent
 39 to the employer and the claimant.

40 SECTION 34. IC 22-4-43 IS ADDED TO THE INDIANA CODE
 41 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2002]:

HB 1313—LS 7321/DI 96+



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Chapter 43. Work Sharing

Sec. 1. As used in this chapter:

(1) "Affected employee" means an individual who has been continuously on the payroll of an affected unit for at least three (3) months before the employing unit submits a work sharing plan.

(2) "Affected unit" means a specific plant, department, shift, or other definable unit of an employing unit:

(A) that has at least two (2) employees; and

(B) to which an approved work sharing plan applies.

(3) "Approved work sharing plan" means a plan that satisfies the purpose set forth in section 2 of this chapter and has the approval of the commissioner.

(4) "Commissioner" means the commissioner of workforce development appointed under IC 22-4.1-3-1.

(5) "Employee association" means:

(A) an association that is a party to a collective bargaining agreement under which it may negotiate a work sharing plan; or

(B) an association authorized by all of its members to become a party to a work sharing plan.

(6) "Normal weekly work hours" means the lesser of:

(A) the number of hours in a week that an employee customarily works for the regular employing unit; or

(B) forty (40) hours.

(7) "Work sharing plan" means a plan of an employing unit or employer association under which:

(A) normal weekly work hours of affected employees are reduced; and

(B) affected employees share the work that remains after the reduction.

(8) "Work sharing benefit" means benefits payable to an affected employee for work performed under an approved work sharing plan, including benefits payable to a federal civilian employee or former member of the armed forces under 5 U.S.C. 8500 et seq., but does not include benefits that are otherwise payable under this article.

(9) "Work sharing employer" means an employing unit or employer association for which a work sharing plan has been approved.

Sec. 2. The work sharing unemployment insurance program seeks to:

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- 1 **(1) preserve the jobs of employees and the work force of an**
- 2 **employer during lowered economic activity by reduction in**
- 3 **work hours or workdays rather than by a layoff of some**
- 4 **employees while other employees continue their normal**
- 5 **weekly work hours or workdays; and**
- 6 **(2) ameliorate the adverse effect of reduction in business**
- 7 **activity by providing benefits for the part of the normal**
- 8 **weekly work hours or workdays in which an employee does**
- 9 **not work.**

10 **Sec. 3. An employing unit or employee association that wishes**
 11 **to participate in the work sharing unemployment insurance**
 12 **program shall submit to the commissioner a written work sharing**
 13 **plan that the employing unit or representative of the employee**
 14 **association has signed.**

15 **Sec. 4. (a) Within fifteen (15) days after receipt of a work**
 16 **sharing plan, the commissioner shall give written approval or**
 17 **disapproval of the plan to the employing unit or employee**
 18 **association.**

19 **(b) The decision of the commissioner to disapprove a work**
 20 **sharing plan is final and may not be appealed.**

21 **(c) An employing unit or employee association may submit a**
 22 **new work sharing plan not less than fifteen (15) days after**
 23 **disapproval of a work sharing plan.**

24 **Sec. 5. The commissioner shall approve a work sharing plan**
 25 **that meets the following requirements:**

- 26 **(1) The work sharing plan must apply to:**
 - 27 **(A) at least ten percent (10%) of the employees in an**
 - 28 **affected unit; or**
 - 29 **(B) at least twenty (20) employees in an affected unit in**
 - 30 **which the work sharing plan applies equally to all affected**
 - 31 **employees.**

32 **(2) The normal weekly work hours of affected employees in**
 33 **the affected unit shall be reduced by at least ten percent**
 34 **(10%) but the reduction may not exceed fifty percent (50%)**
 35 **unless waived by the commissioner.**

36 **Sec. 6. A work sharing plan must:**

- 37 **(1) identify the affected unit;**
- 38 **(2) identify each employee in the affected unit by:**
 - 39 **(A) name;**
 - 40 **(B) Social Security number; and**
 - 41 **(C) any other information that the commissioner requires;**
- 42 **(3) specify an expiration date that is not more than six (6)**

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- 1 months after the effective date of the work sharing plan;
- 2 (4) specify the effect that the work sharing plan will have on
- 3 the fringe benefits of each employee in the affected unit
- 4 including:
- 5 (A) health insurance for hospital, medical, dental, and
- 6 similar services;
- 7 (B) retirement benefits under benefit pension plans as
- 8 defined in the federal Employee Retirement Security Act
- 9 (29 U.S.C. 1001 et seq.);
- 10 (C) holiday and vacation pay;
- 11 (D) sick leave; and
- 12 (E) similar advantages;
- 13 (5) certify that:
- 14 (A) each affected employee has been continuously on the
- 15 payroll of the employing unit for three (3) months
- 16 immediately before the date on which the employing unit
- 17 or employer association submits the work sharing plan;
- 18 and
- 19 (B) the total reduction in normal weekly work hours is in
- 20 place of layoffs that would have:
- 21 (i) affected at least the number of employees specified in
- 22 section 5(1) of this chapter; and
- 23 (ii) would have resulted in an equivalent reduction in
- 24 work hours; and
- 25 (6) contain the written approval of:
- 26 (A) the collective bargaining agent for each collective
- 27 bargaining agreement that covers any affected employee
- 28 in the affected unit; or
- 29 (B) if there is no agent, a representative of the employees
- 30 or employee association in the affected unit.
- 31 **Sec. 7. If a work sharing plan serves the work sharing employer**
- 32 **as a transitional step to permanent staff reduction, the work**
- 33 **sharing plan must contain a reemployment assistance plan for each**
- 34 **affected employee that the work sharing employer develops with**
- 35 **the commissioner.**
- 36 **Sec. 8. The work sharing employer shall agree to:**
- 37 (1) submit reports that are necessary to administer the work
- 38 sharing plan; and
- 39 (2) allow the department to have access to all records
- 40 necessary to:
- 41 (A) verify the work sharing plan before its approval; and
- 42 (B) monitor and evaluate the application of the work

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sharing plan after its approval.

Sec. 9. (a) An approved work sharing plan may be modified if the modification meets the requirements for approval under section 6 of this chapter and the commissioner approves the modifications.

(b) An employing unit may add an employee to a work sharing plan when the employee has been continuously on the payroll for three (3) months.

(c) An approved modification of a work sharing plan may not change its expiration date.

Sec. 10. (a) An affected employee is eligible under section 12 of this chapter to receive work sharing benefits for each week in which the commissioner determines that the affected employee is:

- (1) able to work; and**
- (2) available for more hours of work or full-time work for the worksharing employer.**

(b) An affected employee who otherwise is eligible may not be denied work sharing benefits for lack of effort to secure work as set forth in IC 22-4-14-3 or for failure to apply for available suitable work as set forth in IC 22-4-15-2 from a person other than the work sharing employer.

(c) An affected employee shall apply for benefits under IC 22-4-17-1.

(d) An affected employee who otherwise is eligible for benefits is:

- (1) considered to be unemployed for the purpose of the work sharing unemployment insurance program; and**
- (2) not subject to the requirements of IC 22-4-14-2.**

Sec. 11. The weekly work sharing unemployment compensation benefit due to an affected worker is determined in STEP FOUR of the following formula:

STEP ONE: Determine the weekly benefit that would be due to the affected employee under IC 22-4-12-4.

STEP TWO: Determine the percentage of reduction in the employee's normal work hours as to those under the approved work sharing plan.

STEP THREE: Multiply the number determined in STEP ONE by the quotient determined in STEP TWO.

STEP FOUR: If the product determined under STEP THREE is not a multiple of one dollar (\$1), round down to the nearest lower multiple of one dollar (\$1).

Sec. 12. (a) An affected employee is eligible to receive not more

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than twenty six (26) weeks of work sharing benefits during each benefit year.

(b) The total amount of benefits payable under IC 22-4-12-4 and work sharing benefits payable under this chapter may not exceed the total payable for the benefit year under IC 22-4-12-4(a).

Sec. 13. The board shall establish rules under IC 4-22-2 applicable to partially unemployed workers for determining their weekly benefit amount due under this chapter, subject to IC 22-4-12-5(b).

Sec. 14. During a week in which an affected employee who otherwise is eligible for benefits does not work for the work sharing employer:

- (1) the individual shall be paid benefits in accordance with this chapter; and
- (2) the week does not count as a week for which a work sharing benefit is received.

Sec. 15. During a week in which an employee earns wages under an approved work sharing plan and other wages, the work sharing benefit shall be reduced by the same percentage that the combined wages are of wages for normal weekly work hours if the other wages:

- (1) exceed the wages earned under the approved work sharing plan; and
- (2) do not exceed ninety percent (90%) of the wages that the individual earns for normal weekly work hours.

This computation applies regardless of whether the employee earned the other wage from the work sharing employer or other employer.

Sec. 16. While an affected employee applies for or receives work sharing benefits, the affected employee is not eligible for:

- (1) extended benefits under IC 22-4-12-4; or
- (2) supplemental federal unemployment compensation.

Sec. 17. The commissioner may revoke approval of an approved work sharing plan for good cause, including:

- (1) conduct or an occurrence that tends to defeat the intent and effective operation of the approved work sharing plan;
- (2) failure to comply with an assurance in the approved work sharing plan;
- (3) unreasonable revision of a productivity standard of the affected unit; and
- (4) violation of a criterion on which the commissioner based the approval of the work sharing plan.

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1 SECTION 35. IC 22-4-44 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2002]:

4 **Chapter 44. Expanded Unemployment Insurance Benefits While**
5 **in State Training**

6 **Sec. 1. It is the intent of the general assembly that:**

7 (1) a training benefits program be established to provide
8 unemployment insurance benefits to unemployed individuals
9 who participate in training programs necessary for their
10 reemployment;

11 (2) funding for the program be limited by a specified
12 maximum amount each fiscal year;

13 (3) individuals unemployed as a result of structural changes
14 in the economy and technological advances rendering their
15 skills obsolete must receive the highest priority for
16 participation in the program;

17 (4) individuals for whom suitable employment is available are
18 not eligible for additional benefits while participating in
19 training; and

20 (5) the program shall serve the following goals:

21 (A) Retraining should be available for those unemployed
22 individuals whose skills are no longer in demand.

23 (B) To be eligible for retraining, an individual must have
24 a long term attachment to the labor force.

25 (C) Training must enhance the individual's marketable
26 skills and earning power.

27 (D) Retraining must be targeted to those industries or
28 skills that are in high demand within the labor market.

29 **Sec. 2. The following definitions apply throughout this chapter:**

30 (1) "High demand" means demand for employment that
31 exceeds the supply of qualified workers for occupations or
32 skill sets in a labor market area.

33 (2) "State educational institution" has the meaning set forth
34 in IC 20-12-0.5-1 and includes an equivalent educational
35 institution in another state that also receives appropriations
36 from the general assembly of the other state.

37 (3) "Sufficient tenure" means earning a plurality of wages in
38 a particular occupation or using a particular skill set during
39 the base period and at least two (2) of the four (4) twelve (12)
40 month periods immediately preceding the base period.

41 (4) "Training benefits" means additional benefits paid under
42 this chapter.

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- (5) "Training program" means:**
 - (A) an education program determined to be necessary as a prerequisite to vocational training after counseling at the state educational institution in which the individual enrolls under the individual's approved training program; or**
 - (B) a vocational training program at a state educational institution that:**
 - (i) is targeted to training for a high demand occupation. Beginning July 1, 2002, the assessment of high demand occupations authorized for training under this chapter must be substantially based on labor market and employment information developed by the department of employment and training services in cooperation with the commissioner of labor under IC 22-1-1-8(2);**
 - (ii) is likely to enhance the individual's marketable skills and earning power; and**
 - (iii) meets the criteria for performance developed by the department of employment and training services for the purpose of determining those training programs eligible for funding under 29 U.S.C. 2911 et seq.**

The term does not include any course of education primarily intended to meet the requirements of a baccalaureate or higher degree, unless the training meets specific requirements for certification, licensing, or specific skills necessary for the occupation.

Sec. 3. Subject to availability of funds, training benefits are available for an individual who meets all the following conditions:

- (1) The individual is eligible for or has exhausted entitlement to unemployment compensation benefits.**
- (2) The individual is a dislocated worker who:**
 - (A) has been terminated or received a notice of termination from employment;**
 - (B) is eligible for or has exhausted entitlement to unemployment compensation benefits; and**
 - (C) is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for the individual's skills in that occupation or industry.**
- (3) Except as provided under subdivision (4), the individual has demonstrated, through a work history, sufficient tenure in an occupation or in work with a particular skill set. This screening will take place during the assessment process.**

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(4) The individual is, after assessment of demand for the individual's occupation or skills in the individual's labor market, determined to need job related training to find suitable employment in the individual's labor market. Beginning July 1, 2002, the assessment of demand for the individual's occupation or skill sets must be substantially based on declining occupation or skill sets identified in local labor market areas by the department of employment and training services.

(5) The individual develops an individual training program that is submitted to the commissioner for approval within sixty (60) days after the individual is notified by the department of the requirements of this section.

(6) The individual enters the approved training program within ninety (90) days after the date of the notification, unless the department determines that the training is not available during the ninety (90) day period, in which case the individual enters training as soon as it is available.

(7) The individual is enrolled in training approved under this chapter on a full-time basis as determined by the state educational institution and is making satisfactory progress in the training as certified by the state educational institution.

Sec. 4. An individual is not eligible for training benefits under this chapter if the individual:

- (1) is a standby claimant who expects recall to his or her regular employer;
- (2) has a definite recall date that is within six (6) months after the date the individual has been laid off; or
- (3) is unemployed due to regular seasonal employment as defined in IC 22-4-8-4(a).

Sec. 5. Benefits shall be paid as follows:

- (1) The total training benefit amount shall be fifty-two (52) times the individual's weekly benefit amount, reduced by the total amount of regular benefits and extended benefits paid or considered paid with respect to the benefit year.
- (2) The weekly benefit amount shall be the same as the regular weekly amount payable during the applicable benefit year and shall be paid under the same terms and conditions as regular benefits. The training benefits shall be paid before any extended benefits but not before any similar federally funded program.
- (3) Training benefits are not payable for weeks more than two

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(2) years beyond the end of the benefit year of the regular claim.

Sec. 6. The provisions of IC 22-4-2-34(i) relating to exhaustees and regular benefits do not apply to an individual otherwise eligible for training benefits under this chapter when the individual's benefit year ends before the training benefits are exhausted and the individual is eligible for a new benefit year. The individual will have the option of remaining on the original claim or filing a new claim.

Sec. 7. An individual who receives training benefits under this chapter or under any previous additional benefits program for training is not eligible for training benefits under this chapter for five (5) years from the last receipt of training benefits under this chapter or under any previous additional benefits program for training.

Sec. 8. All base period employers are interested parties to the approval of training and the granting of training benefits.

Sec. 9. By July 1, 2002, the department of employment and training services in cooperation with the commissioner of labor under IC 22-1-1-8(2) must identify occupations and skill sets that are declining and occupations and skill sets that are in high demand. Thereafter, the department of employment and training services shall update this information annually or more frequently if needed.

Sec. 10. The department is authorized to pay training benefits under section 3 of this chapter but may not obligate expenditures beyond the appropriation made by the general assembly or beyond funds available to the department under IC 22-4-40-11. The department shall develop a procedure to ensure that expenditures do not exceed available funds and to prioritize access to funds when again available.

Sec. 11. The department shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 36. [EFFECTIVE JULY 1, 2002] (a) Notwithstanding IC 22-4-43-13, as added by this act, the unemployment insurance board shall carry out the duties imposed upon it under IC 22-4-43-13, as added by this act, under interim written guidelines approved by the commissioner of workforce development.

- (b) This SECTION expires on the earlier of the following:
 - (1) The date rules are adopted under IC 22-4-43-13, as added by this act.

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(2) December 31, 2003.

SECTION 37. [EFFECTIVE JULY 1, 2002] **(a) Notwithstanding IC 22-4-44-9, as added by this act, the department of workforce development shall carry out the duties imposed upon it under IC 22-4-44-9, as added by this act, under interim written guidelines approved by the commissioner of workforce development.**

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

(1) The date rules are adopted under IC 22-4-44-9, as added by this act.

(2) December 31, 2003.

SECTION 38. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 22-4-2-12, as amended by this act, the department of workforce development shall carry out the duties imposed upon it under IC 22-4-2-12 under interim written guidelines approved by the commissioner of the department of workforce development.**

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

(1) The date rules are adopted under IC 22-4-2-12, as amended by this act.

(2) December 31, 2003.

SECTION 39. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1313, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 3. IC 22-3-3-10, AS AMENDED BY P.L.31-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: 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

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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

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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

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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

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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

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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 finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation, thirty-five (35) degrees of permanent impairment.

(6) For the reduction of vision to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(7) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(8) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(9) Loss of use: The total permanent loss of the use of an arm, a

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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:

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(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;

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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 one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars (\$2,500) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, **and before July 1, 2002**, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

(9) With respect to injuries occurring on and after July 1, 2002, and before July 1, 2003, 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

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thousand nine hundred dollars (\$3,900) per degree.

(10) With respect to injuries occurring on and after July 1, 2003, 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.

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

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

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

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

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

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

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

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

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

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).

(10) With respect to injuries occurring on or after July 1, 2002, **and before July 1, 2003**, eight hundred eighty-two dollars (\$882).

(11) With respect to injuries occurring on or after July 1, 2003, nine hundred forty-two dollars (\$942).

SECTION 4. IC 22-3-3-22, AS AMENDED BY P.L.31-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: 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

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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

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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

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dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 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

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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);

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

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

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

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

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

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

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

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

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and

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

(7) with respect to injuries occurring on and after July 1, 2003:

(A) not more than nine hundred forty-two dollars (\$942); 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

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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

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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).

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

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

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

(5) With respect to an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars (\$274,000).

(6) With respect to an injury occurring on and after July 1, 2002, two hundred ninety-four thousand dollars (\$294,000)."

Page 16, line 11, after "2001," insert "**and before July 1, 2002,**".

Page 16, between lines 18 and 19, begin a new line block indented and insert:

"(9) With respect to disablements occurring on and after July 1, 2002, and before July 1, 2003, 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.

(10) With respect to disablements occurring on and after July 1, 2003, 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. "

Page 17, line 2, strike "injuries" and insert "**disablements**".

Page 17, line 4, strike "injuries" and insert "**disablements**".

Page 17, line 4, after "2002," insert "**and before July 1, 2003,**".

Page 17, between lines 5 and 6, begin a new line block indented and

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insert:

"(11) With respect to disablements occurring on or after July 1, 2003, nine hundred forty-two dollars (\$942)."

Page 23, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 10. IC 22-3-7-19, AS AMENDED BY P.L.31-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: 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:

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- (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:

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- (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);

- (4) with respect to occupational diseases occurring on and after July 1, 2000, and before July 1, 2001:

- (A) not more than seven hundred sixty-two dollars (\$762); and
- (B) not less than seventy-five dollars (\$75);

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

- (A) not more than eight hundred twenty-two dollars (\$822); and
- (B) not less than seventy-five dollars (\$75); ~~and~~

- (6) with respect to ~~disablements~~ **occupational diseases** occurring on and after July 1, 2002, **and before July 1, 2003:**

- (A) not more than eight hundred eighty-two dollars (\$882); and
- (B) not less than seventy-five dollars (\$75); **and**

- (7) **with respect to occupational diseases occurring on and after July 1, 2003:**

- (A) **not more than nine hundred forty-two dollars (\$942); and**

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(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

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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 disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four



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thousand dollars (\$274,000).

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

(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

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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)."

Page 27, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 13. IC 22-4-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. **(a) Except as provided in subsections (b) and (c),** "base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit period. ~~Provided,~~ However, ~~That~~ for a claim computed in accordance with IC ~~1971,~~ 22-4-22, the base period shall be the base period as outlined in the paying state's law.

(b) Effective July 1, 2002, "base period" also includes, in the case of an individual who does not have sufficient wages in the base period as set forth in subsection (a), the last four (4) completed calendar quarters immediately preceding the first day of the benefit year of the individual if the period qualifies the individual for benefits under this chapter. Wages that fall within the base period of claims established under this subsection are not available for reuse in qualifying for a subsequent benefit year.

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

(d) The department shall adopt rules under IC 4-22-2 to obtain



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wage information if wage information for the most recent quarter of the base period as set forth under subsection (b) is not available to the department from regular quarterly reports of wage information that is systemically accessible.

SECTION 14. IC 22-4-2-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12.5. (a) Notwithstanding section 12 of this chapter, for an individual who during the "base period" as defined in that section has received worker's compensation benefits under IC 22-3-3 for a period of fifty-two (52) weeks or less, and as a result has not earned sufficient wage credits to meet the requirements of IC 22-4-14-5, "base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the last day that the individual was able to work, as a result of the individual's injury.

(b) The provisions of section 12(b), 12(c), and 12(d) of this chapter apply beginning July 1, 2002.

SECTION 15. IC 22-4-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 22. "Valid claim" means a claim filed by an individual who has established qualifying wage credits and who is totally, partially, or part-totally unemployed; Provided, no individual in a benefit period may file a valid claim for a ~~waiting period or~~ benefit period rights with respect to any period subsequent to the expiration of such benefit period.

SECTION 16. IC 22-4-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 29. "Insured unemployment" means unemployment during a given week for which waiting period credit or benefits, **if applicable**, are claimed under the state employment security program, the unemployment compensation for federal employees program, the unemployment compensation for veterans program, or the railroad unemployment insurance program.

SECTION 17. IC 22-4-4-3, AS AMENDED BY P.L.30-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) For calendar quarters beginning on and after April 1, 1979, and before April 1, 1984, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed three thousand six hundred sixty-six dollars (\$3,666) and may not include payments specified in section 2(b) of this chapter.

(b) For calendar quarters beginning on and after April 1, 1984, and before April 1, 1985, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed three thousand nine hundred twenty-six dollars (\$3,926) and



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may not include payments specified in section 2(b) of this chapter.

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

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

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

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

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

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

(i) For calendar quarters beginning on and after July 1, 2000, and

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

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

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

(l) For calendar quarters beginning on and after July 1, 2003, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand five hundred dollars (\$8,500) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

SECTION 18. IC 22-4-12-2, AS AMENDED BY P.L.235-1999, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) With respect to initial claims filed for any week beginning on and after July 6, 1980, and before July 7, 1985, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid for the week, if properly claimed, benefits at the rate of four and three-tenths percent (4.3%) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest. However, the weekly benefit amount may not exceed:

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

- (1) five percent (5%) of the first one thousand dollars (\$1,000) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest; and
- (2) four percent (4%) of the individual's remaining wage credits in the calendar quarter during the individual's base period in which the wage credits were highest.

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

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

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

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individual has no dependents;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) With respect to initial claims filed for any week beginning on and after July 1, 1997, **and before July 1, 2004**, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid for the week, if properly claimed, benefits at the rate of:

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

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

(l) With respect to initial claims filed for any week beginning on and after July 1, 2004, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid if properly claimed according to the following:

(1) The weekly benefit amount shall be four and one-sixth percent (4 1/6%) of the average quarterly wages of the individual's total wages during the two (2) quarters of the individual's base year in which the individual's total wages were highest.

(2) The following maximum and minimum amounts payable each week shall be determined as of June 30 of each year in order to apply to a benefit year beginning in the twelve (12) month period immediately following June 30:

(A) The maximum amount payable each week shall be fifty percent (50%) of the average weekly wage for the period beginning January 1 and ending June 30 of the current year.

(B) The minimum amount payable each week shall be fifteen percent (15%) of the average weekly wage for the period beginning January 1 and ending June 30 of the current year.

SECTION 19. IC 22-4-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. As a condition precedent to the payment of benefits to an individual with respect to any week such individual shall be required to serve a waiting period of one (1) week in which he has been totally, partially or part-totally unemployed and with respect to which he has received no benefits, but



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during which he was eligible for benefits in all other respects and was not otherwise ineligible for benefits under any provisions of this article. Such waiting period shall be a week in the individual's benefit period and during such week such individual shall be physically and mentally able to work and available for work. ~~No~~ **An** individual in a benefit period may **not** file for ~~waiting period or~~ benefit period rights with respect to any subsequent period. ~~Provided, however, That no waiting period shall be required as a prerequisite for drawing extended benefits: "~~

Page 28, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 21. IC 22-4-15-1, AS AMENDED BY P.L.290-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left the individual's most recent employment without good cause in connection with the work or who was discharged from the individual's most recent employment for just cause is ineligible for ~~waiting period or~~ benefit rights for the week in which the disqualifying separation occurred and until the individual has earned remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

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

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

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

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



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

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

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

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

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left the individual's work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, the individual shall be deemed ineligible as outlined in this section.

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

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

- (A) the employment was outside the individual's labor market;
- (B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and
- (C) the individual actually became employed with the employer in the individual's labor market.

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

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

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

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

- (1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;
- (2) knowing violation of a reasonable and uniformly enforced rule of an employer;
- (3) unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;
- (4) damaging the employer's property through willful negligence;
- (5) refusing to obey instructions;
- (6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;
- (7) conduct endangering safety of self or coworkers; or
- (8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an

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employer by an employee.

SECTION 22. IC 22-4-15-2, AS AMENDED BY P.L.290-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for ~~waiting period~~ or benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

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

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

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

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

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

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

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period or extended benefit period.

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

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

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

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

- (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.
- (2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.
- (3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.
- (4) If as a condition of being employed the individual would be required to discontinue training into which the individual had entered with the approval of the department.

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

(h) With respect to extended benefit periods established on and after

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July 5, 1981, no work shall be considered suitable and extended benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:
 - (A) the individual's average weekly benefit amount for the individual's benefit year; plus
 - (B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.
- (2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.
- (3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.
- (4) If the position pays wages less than the higher of:
 - (A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The Fair Labor Standards Act of 1938), without regard to any exemption; or
 - (B) the state minimum wage (IC 22-2-2).

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

Page 28, line 38, strike "waiting period or".

Page 29, line 34, strike "waiting period or".

Page 30, after line 34, begin a new paragraph and insert:

"SECTION 25. IC 22-4-15-4, AS AMENDED BY P.L.290-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) An individual ~~shall be~~ is ineligible for ~~waiting period or~~ benefit rights for any week with respect to which the individual receives, is receiving, or has received payments equal to or exceeding ~~his~~ **the individual's** weekly benefit amount in the form of:

- (1) deductible income as defined and applied in IC 22-4-5-1 and IC 22-4-5-2; or
- (2) any pension, retirement or annuity payments, under any plan of an employer whereby the employer contributes a portion or all of the money. This disqualification shall apply only if some or all of the benefits otherwise payable are chargeable to the experience or reimbursable account of ~~such~~ **the** employer, or would have been chargeable except for the application of this chapter. For ~~the~~

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purposes of this subdivision, ~~(2)~~, federal old age, survivors, and disability insurance benefits are not considered payments under a plan of an employer whereby the employer maintains the plan or contributes a portion or all of the money to the extent required by federal law.

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

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

SECTION 26. IC 22-4-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. Except as provided in IC ~~1971~~, 22-4-22, an individual ~~shall be is~~ ineligible for ~~waiting period or~~ benefit rights for any week with respect to which or a part of which ~~he~~ **the individual** receives, is receiving, has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States. ~~Provided, that~~ **However**, this disqualification shall not apply if the appropriate agency of such other state or of the United States finally determines that ~~he~~ **the individual** is not entitled to such employment benefits, including benefits to federal civilian employees and ex-servicemen pursuant to 5 U.S.C. Chapter 85.

SECTION 27. IC 22-4-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. Notwithstanding any other provisions of this article, if an individual knowingly fails to disclose amounts earned during any week in ~~his waiting period~~, **the individual's** benefit period or extended benefit period with respect to which benefit rights or extended benefit rights are claimed, or knowingly fails to disclose or has falsified as to any fact ~~which that~~ would have disqualified ~~him~~ **the individual** or rendered ~~him~~ **the individual** ineligible for benefits or extended benefits or would have reduced ~~his~~ **the individual's** benefit rights or extended benefit rights during such a week, all of ~~his~~ **the individual's** wage credits established prior to the week of the falsification or failure to disclose shall be cancelled, and any benefits or extended benefits ~~which that~~ might otherwise have become payable to ~~him~~ **the individual** and any benefit

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rights or extended benefit rights based upon those wage credits shall be forfeited.

SECTION 28. IC 22-4-17-2, AS AMENDED BY P.L.290-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly make a determination of ~~his~~ **the individual's** status as an insured worker in a form prescribed by the board. A written notice of the determination of insured status shall be furnished ~~him~~ **to the individual** promptly. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within twenty (20) days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) The department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. Such notice shall contain the date, the name and social security account number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit period. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer, within twenty (20) days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

(c) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within twenty (20) days after the mailing of notice that a former

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employee has filed an initial or additional claim for benefits on a form prescribed by the board.

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

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for ~~waiting period credit~~ or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof. Except as otherwise hereinafter provided in this subsection regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within twenty (20) days after such notification was mailed to the claimant's or the employer's last known address, or otherwise delivered to the claimant or the employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. With respect to notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless such claimant or employer, within twenty-five (25) days after such notification was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. If such hearing is desired, the request therefor shall be filed with the commissioner in writing within the prescribed periods as above set forth in this subsection and shall be in such form as the board may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

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

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

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

SECTION 28. IC 22-4-43 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 43. Work Sharing

Sec. 1. As used in this chapter:

- (1) "Affected employee" means an individual who has been continuously on the payroll of an affected unit for at least three (3) months before the employing unit submits a work sharing plan.
- (2) "Affected unit" means a specific plant, department, shift, or other definable unit of an employing unit:
 - (A) that has at least two (2) employees; and
 - (B) to which an approved work sharing plan applies.
- (3) "Approved work sharing plan" means a plan that satisfies the purpose set forth in section 2 of this chapter and has the approval of the commissioner.
- (4) "Commissioner" means the commissioner of workforce development appointed under IC 22-4.1-3-1.
- (5) "Employee association" means:
 - (A) an association that is a party to a collective bargaining agreement under which it may negotiate a work sharing plan; or
 - (B) an association authorized by all of its members to become a party to a work sharing plan.
- (6) "Normal weekly work hours" means the lesser of:



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- (A) the number of hours in a week that an employee customarily works for the regular employing unit; or
- (B) forty (40) hours.

(7) "Work sharing plan" means a plan of an employing unit or employer association under which:

- (A) normal weekly work hours of affected employees are reduced; and
- (B) affected employees share the work that remains after the reduction.

(8) "Work sharing benefit" means benefits payable to an affected employee for work performed under an approved work sharing plan, including benefits payable to a federal civilian employee or former member of the armed forces under 5 U.S.C. 8500 et seq., but does not include benefits that are otherwise payable under this article.

(9) "Work sharing employer" means an employing unit or employer association for which a work sharing plan has been approved.

Sec. 2. The work sharing unemployment insurance program seeks to:

- (1) preserve the jobs of employees and the work force of an employer during lowered economic activity by reduction in work hours or workdays rather than by a layoff of some employees while other employees continue their normal weekly work hours or workdays; and
- (2) ameliorate the adverse effect of reduction in business activity by providing benefits for the part of the normal weekly work hours or workdays in which an employee does not work.

Sec. 3. An employing unit or employee association that wishes to participate in the work sharing unemployment insurance program shall submit to the commissioner a written work sharing plan that the employing unit or representative of the employee association has signed.

Sec. 4. (a) Within fifteen (15) days after receipt of a work sharing plan, the commissioner shall give written approval or disapproval of the plan to the employing unit or employee association.

(b) The decision of the commissioner to disapprove a work sharing plan is final and may not be appealed.

(c) An employing unit or employee association may submit a new work sharing plan not less than fifteen (15) days after

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disapproval of a work sharing plan.

Sec. 5. The commissioner shall approve a work sharing plan that meets the following requirements:

- (1) The work sharing plan must apply to:
 - (A) at least ten percent (10%) of the employees in an affected unit; or
 - (B) at least twenty (20) employees in an affected unit in which the work sharing plan applies equally to all affected employees.
- (2) The normal weekly work hours of affected employees in the affected unit shall be reduced by at least ten percent (10%) but the reduction may not exceed fifty percent (50%) unless waived by the commissioner.

Sec. 6. A work sharing plan must:

- (1) identify the affected unit;
- (2) identify each employee in the affected unit by:
 - (A) name;
 - (B) Social Security number; and
 - (C) any other information that the commissioner requires;
- (3) specify an expiration date that is not more than six (6) months after the effective date of the work sharing plan;
- (4) specify the effect that the work sharing plan will have on the fringe benefits of each employee in the affected unit including:
 - (A) health insurance for hospital, medical, dental, and similar services;
 - (B) retirement benefits under benefit pension plans as defined in the federal Employee Retirement Security Act (29 U.S.C. 1001 et seq.);
 - (C) holiday and vacation pay;
 - (D) sick leave; and
 - (E) similar advantages;
- (5) certify that:
 - (A) each affected employee has been continuously on the payroll of the employing unit for three (3) months immediately before the date on which the employing unit or employer association submits the work sharing plan; and
 - (B) the total reduction in normal weekly work hours is in place of layoffs that would have:
 - (i) affected at least the number of employees specified in section 5(1) of this chapter; and

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- (ii) would have resulted in an equivalent reduction in work hours; and
- (6) contain the written approval of:
 - (A) the collective bargaining agent for each collective bargaining agreement that covers any affected employee in the affected unit; or
 - (B) if there is no agent, a representative of the employees or employee association in the affected unit.

Sec. 7. If a work sharing plan serves the work sharing employer as a transitional step to permanent staff reduction, the work sharing plan must contain a reemployment assistance plan for each affected employee that the work sharing employer develops with the commissioner.

Sec. 8. The work sharing employer shall agree to:

- (1) submit reports that are necessary to administer the work sharing plan; and
- (2) allow the department to have access to all records necessary to:
 - (A) verify the work sharing plan before its approval; and
 - (B) monitor and evaluate the application of the work sharing plan after its approval.

Sec. 9. (a) An approved work sharing plan may be modified if the modification meets the requirements for approval under section 6 of this chapter and the commissioner approves the modifications.

(b) An employing unit may add an employee to a work sharing plan when the employee has been continuously on the payroll for three (3) months.

(c) An approved modification of a work sharing plan may not change its expiration date.

Sec. 10. (a) An affected employee is eligible under section 12 of this chapter to receive work sharing benefits for each week in which the commissioner determines that the affected employee is:

- (1) able to work; and
- (2) available for more hours of work or full-time work for the worksharing employer.

(b) An affected employee who otherwise is eligible may not be denied work sharing benefits for lack of effort to secure work as set forth in IC 22-4-14-3 or for failure to apply for available suitable work as set forth in IC 22-4-15-2 from a person other than the work sharing employer.

(c) An affected employee shall apply for benefits under

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IC 22-4-17-1.

(d) An affected employee who otherwise is eligible for benefits is:

- (1) considered to be unemployed for the purpose of the work sharing unemployment insurance program; and**
- (2) not subject to the requirements of IC 22-4-14-2.**

Sec. 11. The weekly work sharing unemployment compensation benefit due to an affected worker is determined in STEP FOUR of the following formula:

STEP ONE: Determine the weekly benefit that would be due to the affected employee under IC 22-4-12-4.

STEP TWO: Determine the percentage of reduction in the employee's normal work hours as to those under the approved work sharing plan.

STEP THREE: Multiply the number determined in STEP ONE by the quotient determined in STEP TWO.

STEP FOUR: If the product determined under STEP THREE is not a multiple of one dollar (\$1), round down to the nearest lower multiple of one dollar (\$1).

Sec. 12. (a) An affected employee is eligible to receive not more than twenty six (26) weeks of work sharing benefits during each benefit year.

(b) The total amount of benefits payable under IC 22-4-12-4 and work sharing benefits payable under this chapter may not exceed the total payable for the benefit year under IC 22-4-12-4(a).

Sec. 13. The board shall establish rules under IC 4-22-2 applicable to partially unemployed workers for determining their weekly benefit amount due under this chapter, subject to IC 22-4-12-5(b).

Sec. 14. During a week in which an affected employee who otherwise is eligible for benefits does not work for the work sharing employer:

- (1) the individual shall be paid benefits in accordance with this chapter; and**
- (2) the week does not count as a week for which a work sharing benefit is received.**

Sec. 15. During a week in which an employee earns wages under an approved work sharing plan and other wages, the work sharing benefit shall be reduced by the same percentage that the combined wages are of wages for normal weekly work hours if the other wages:

- (1) exceed the wages earned under the approved work sharing**

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plan; and

(2) do not exceed ninety percent (90%) of the wages that the individual earns for normal weekly work hours.

This computation applies regardless of whether the employee earned the other wage from the work sharing employer or other employer.

Sec. 16. While an affected employee applies for or receives work sharing benefits, the affected employee is not eligible for:

- (1) extended benefits under IC 22-4-12-4; or
- (2) supplemental federal unemployment compensation.

Sec. 17. The commissioner may revoke approval of an approved work sharing plan for good cause, including:

- (1) conduct or an occurrence that tends to defeat the intent and effective operation of the approved work sharing plan;
- (2) failure to comply with an assurance in the approved work sharing plan;
- (3) unreasonable revision of a productivity standard of the affected unit; and
- (4) violation of a criterion on which the commissioner based the approval of the work sharing plan.

SECTION 29. IC 22-4-44 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 44. Expanded Unemployment Insurance Benefits While in State Training

Sec. 1. It is the intent of the general assembly that:

- (1) a training benefits program be established to provide unemployment insurance benefits to unemployed individuals who participate in training programs necessary for their reemployment;
- (2) funding for the program be limited by a specified maximum amount each fiscal year;
- (3) individuals unemployed as a result of structural changes in the economy and technological advances rendering their skills obsolete must receive the highest priority for participation in the program;
- (4) individuals for whom suitable employment is available are not eligible for additional benefits while participating in training; and
- (5) the program shall serve the following goals:
 - (A) Retraining should be available for those unemployed individuals whose skills are no longer in demand.

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(B) To be eligible for retraining, an individual must have a long term attachment to the labor force.

(C) Training must enhance the individual's marketable skills and earning power.

(D) Retraining must be targeted to those industries or skills that are in high demand within the labor market.

Sec. 2. The following definitions apply throughout this chapter:

(1) "High demand" means demand for employment that exceeds the supply of qualified workers for occupations or skill sets in a labor market area.

(2) "State educational institution" has the meaning set forth in IC 20-12-0.5-1 and includes an equivalent educational institution in another state that also receives appropriations from the general assembly of the other state.

(3) "Sufficient tenure" means earning a plurality of wages in a particular occupation or using a particular skill set during the base period and at least two (2) of the four (4) twelve (12) month periods immediately preceding the base period.

(4) "Training benefits" means additional benefits paid under this chapter.

(5) "Training program" means:

(A) an education program determined to be necessary as a prerequisite to vocational training after counseling at the state educational institution in which the individual enrolls under the individual's approved training program; or

(B) a vocational training program at a state educational institution that:

(i) is targeted to training for a high demand occupation. Beginning July 1, 2002, the assessment of high demand occupations authorized for training under this chapter must be substantially based on labor market and employment information developed by the department of employment and training services in cooperation with the commissioner of labor under IC 22-1-1-8(2);

(ii) is likely to enhance the individual's marketable skills and earning power; and

(iii) meets the criteria for performance developed by the department of employment and training services for the purpose of determining those training programs eligible for funding under 29 U.S.C. 2911 et seq.

The term does not include any course of education primarily intended to meet the requirements of a baccalaureate or

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higher degree, unless the training meets specific requirements for certification, licensing, or specific skills necessary for the occupation.

Sec. 3. Subject to availability of funds, training benefits are available for an individual who meets all the following conditions:

(1) The individual is eligible for or has exhausted entitlement to unemployment compensation benefits.

(2) The individual is a dislocated worker who:

(A) has been terminated or received a notice of termination from employment;

(B) is eligible for or has exhausted entitlement to unemployment compensation benefits; and

(C) is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for the individual's skills in that occupation or industry.

(3) Except as provided under subdivision (4), the individual has demonstrated, through a work history, sufficient tenure in an occupation or in work with a particular skill set. This screening will take place during the assessment process.

(4) The individual is, after assessment of demand for the individual's occupation or skills in the individual's labor market, determined to need job related training to find suitable employment in the individual's labor market. Beginning July 1, 2002, the assessment of demand for the individual's occupation or skill sets must be substantially based on declining occupation or skill sets identified in local labor market areas by the department of employment and training services.

(5) The individual develops an individual training program that is submitted to the commissioner for approval within sixty (60) days after the individual is notified by the department of the requirements of this section.

(6) The individual enters the approved training program within ninety (90) days after the date of the notification, unless the department determines that the training is not available during the ninety (90) day period, in which case the individual enters training as soon as it is available.

(7) The individual is enrolled in training approved under this chapter on a full-time basis as determined by the state educational institution and is making satisfactory progress in the training as certified by the state educational institution.

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Sec. 4. An individual is not eligible for training benefits under this chapter if the individual:

- (1) is a standby claimant who expects recall to his or her regular employer;**
- (2) has a definite recall date that is within six (6) months after the date the individual has been laid off; or**
- (3) is unemployed due to regular seasonal employment as defined in IC 22-4-8-4(a).**

Sec. 5. Benefits shall be paid as follows:

- (1) The total training benefit amount shall be fifty-two (52) times the individual's weekly benefit amount, reduced by the total amount of regular benefits and extended benefits paid or considered paid with respect to the benefit year.**
- (2) The weekly benefit amount shall be the same as the regular weekly amount payable during the applicable benefit year and shall be paid under the same terms and conditions as regular benefits. The training benefits shall be paid before any extended benefits but not before any similar federally funded program.**
- (3) Training benefits are not payable for weeks more than two (2) years beyond the end of the benefit year of the regular claim.**

Sec. 6. The provisions of IC 22-4-2-34(i) relating to exhaustees and regular benefits do not apply to an individual otherwise eligible for training benefits under this chapter when the individual's benefit year ends before the training benefits are exhausted and the individual is eligible for a new benefit year. The individual will have the option of remaining on the original claim or filing a new claim.

Sec. 7. An individual who receives training benefits under this chapter or under any previous additional benefits program for training is not eligible for training benefits under this chapter for five (5) years from the last receipt of training benefits under this chapter or under any previous additional benefits program for training.

Sec. 8. All base period employers are interested parties to the approval of training and the granting of training benefits.

Sec. 9. By July 1, 2002, the department of employment and training services in cooperation with the commissioner of labor under IC 22-1-1-8(2) must identify occupations and skill sets that are declining and occupations and skill sets that are in high demand. Thereafter, the department of employment and training

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services shall update this information annually or more frequently if needed.

Sec. 10. The department is authorized to pay training benefits under section 3 of this chapter but may not obligate expenditures beyond the appropriation made by the general assembly or beyond funds available to the department under IC 22-4-40-11. The department shall develop a procedure to ensure that expenditures do not exceed available funds and to prioritize access to funds when again available.

Sec. 11. The department shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 30. [EFFECTIVE JULY 1, 2002] (a) Notwithstanding IC 22-4-43-13, as added by this act, the unemployment insurance board shall carry out the duties imposed upon it under IC 22-4-43-13, as added by this act, under interim written guidelines approved by the commissioner of workforce development.

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

- (1) The date rules are adopted under IC 22-4-43-13, as added by this act.
- (2) December 31, 2003.

SECTION 31. [EFFECTIVE JULY 1, 2002] (a) Notwithstanding IC 22-4-44-9, as added by this act, the department of workforce development shall carry out the duties imposed upon it under IC 22-4-44-9, as added by this act, under interim written guidelines approved by the commissioner of workforce development.

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

- (1) The date rules are adopted under IC 22-4-44-9, as added by this act.
- (2) December 31, 2003.

SECTION 32. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 22-4-2-12, as amended by this act, the department of workforce development shall carry out the duties imposed upon it under IC 22-4-2-12 under interim written guidelines approved by the commissioner of the department of workforce development.

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

- (1) The date rules are adopted under IC 22-4-2-12, as amended by this act.
- (2) December 31, 2003.

SECTION 33. An emergency is declared for this act."

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1313 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 8, nays 5.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1313 be amended to read as follows:

Page 13, between lines 39 and 40, begin a new paragraph and insert: "SECTION 4. IC 22-3-3-13, AS AMENDED BY P.L.202-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:

- (1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and
- (2) each employer carrying the employer's own risk;

stating that an assessment is necessary. After June 30, 1999, the board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk, shall, within thirty (30) days of the board sending notice under this subsection, pay to the worker's compensation board for the benefit of the fund an assessed amount that may not exceed ~~two~~ **three** and one-half percent (~~2.5%~~) (**3.5%**) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. For the purposes of calculating the

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assessment under this subsection, the board may consider payments for temporary total disability, temporary partial disability, permanent total impairment, permanent partial impairment, or death of an employee. The board may not consider payments for medical benefits in calculating an assessment under this subsection. If the amount to the credit of the second injury fund on or before October 1 of any year exceeds ~~one~~ **two million five hundred thousand** dollars (~~\$1,000,000~~); (**\$2,500,000**), the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before October 1 of any year the amount to the credit of the fund is less than ~~one~~ **two million five hundred thousand** dollars (~~\$1,000,000~~); (**\$2,500,000**), the payments of not more than ~~two~~ **three** and one-half percent (~~2.5%~~) (**3.5%**) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment.

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

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



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premiums.

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

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

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

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

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

- (1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and
- (2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

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



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

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

(Reference is to HB 1313 as printed January 30, 2002.)

LIGGETT

HOUSE MOTION

Mr. Speaker: I move that House Bill 1313 be amended to read as follows:

Page 1, delete lines 1 through 14, begin a new paragraph and insert:
"SECTION 1. IC 22-3-2-2.5, AS ADDED BY P.L.235-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2.5. (a) As used in this section, "school to work student" refers to a student participating in on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).

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

- (1) Medical benefits under IC 22-3-2 through IC 22-3-6.
- (2) Permanent partial impairment compensation under IC 22-3-3-10. Permanent partial impairment compensation for a school to work student shall be paid in a lump sum upon agreement or final award.
- (3) In the case that death results from the injury:
 - (A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars (\$175,000), **subject to section 8(c) of this chapter**, payable upon agreement or final award to any dependents of the student under IC 22-3-3-18 through IC 22-3-3-20, or, if the student has no dependents, to the student's parents; and
 - (B) burial compensation under IC 22-3-3-21.

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

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

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

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- (2) Temporary partial disability compensation under IC 22-3-3-9.
- (e) Except for remedies available under IC 5-2-6.1, recovery under subsection (b) is the exclusive right and remedy for:
 - (1) a school to work student; and
 - (2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student;
 on account of personal injury or death by accident arising out of and in the course of school to work employment.

SECTION 2. IC 22-3-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002] : Sec. 8. (a) No compensation is allowed for an injury or death due to the employee's:

- (1) knowingly self-inflicted injury;
- (2) his intoxication;
- (3) his commission of an offense; his knowing failure to use a safety appliance;
- (4) his knowing failure to obey a reasonable written or printed rule of the employer which has been posted in a conspicuous position in the place of work; or
- (5) his knowing failure to perform any statutory duty.

The burden of proof is on the defendant.

(b) Each payment of monetary compensation allowed under IC 22-3-3-8, IC 22-3-3-9, IC 22-3-3-10 or IC 22-3-3-22 shall be reduced by fifteen percent (15%) for an injury or a death caused in any degree by the employee's intentional:

- (1) failure to use a safety appliance furnished by the employer; or
- (2) failure to obey an order or administrative regulation of:
 - (A) the worker's compensation board; or
 - (B) the employer;

for the safety of the employees or the public.

(c) Each payment of monetary compensation allowed under IC 22-3-3-8, IC 22-3-3-9, IC 22-3-3-10, or IC 22-3-3-22 shall be increased by thirty percent (30%) for an injury or death caused in any degree by the employer's intentional failure to comply with a statute or administrative regulation regarding safety methods or installation or maintenance of safety appliances that has been communicated to the employer."

Page 4, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 4. IC 22-3-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) With respect to injuries occurring prior to April 1, 1951, causing temporary total disability for work there shall be paid to the injured employee during

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such total disability for work a weekly compensation equal to fifty-five percent (55%) of his average weekly wages for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after April 1, 1951, and prior to July 1, 1971, causing temporary total disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty per cent (60%) of his average weekly wages for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, causing temporary total disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty per cent (60%) of his average weekly wages, as defined in IC 22-3-3-22 a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1974, and before July 1, 1976, causing temporary total disability or total permanent disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of his average weekly wages up to one hundred and thirty-five dollars (\$135.00) average weekly wages, as defined in section 22 of this chapter, for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1976, causing temporary total disability or total permanent disability for work, there shall be paid to the injured employee during the total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of his average weekly wages, as defined in IC 22-3-3-22, 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.

(b) As provided in IC 22-3-2-8(b), each payment of monetary compensation allowed under subsection (a) shall be reduced by fifteen percent (15%) for an injury caused in any degree by the employee's intentional:

- (1) failure to use a safety appliance furnished by the employer; or**
- (2) failure to obey an order or administrative regulation of:**
 - (A) the worker's compensation board; or**
 - (B) the employer;**

for the safety of the employees or the public.

(c) Each payment of monetary compensation allowed under subsection (a) shall be increased by thirty percent (30%) for an injury caused in any degree by the employer's intentional failure to comply with a statute or administrative regulation regarding

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safety methods or installation or maintenance of safety appliances that has been communicated to the employer, as provided in IC 22-3-2-8(c).

SECTION 5. IC 22-3-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. **(a)** With respect to injuries occurring prior to April 1, 1951 causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability, as prescribed in section 7 of this chapter, a weekly compensation equal to fifty-five per cent (55%) of the difference between his average weekly wages and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred (300) weeks. With respect to injuries occurring on and after April 1, 1951 and prior to July 1, 1974 causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability, as prescribed in section 7 of this chapter, a weekly compensation equal to sixty per cent (60%) of the difference between his average weekly wages and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred (300) weeks. With respect to injuries occurring on and after July 1, 1974 causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability as prescribed in section 7 of this chapter, a weekly compensation equal to sixty-six and two-thirds per cent (66 2/3%) of the difference between his average weekly wages and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred (300) weeks. In case the partial disability begins after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(b) As provided in IC 22-3-2-8(b), each payment of monetary compensation allowed under subsection (a) shall be reduced by fifteen percent (15%) for an injury caused in any degree by the employee's intentional:

- (1) failure to use a safety appliance furnished by the employer; or**
- (2) failure to obey an order or administrative regulation of:**
 - (A) the worker's compensation board; or**
 - (B) the employer;**

for the safety of the employees or the public.

(c) Each payment of monetary compensation allowed under subsection (a) shall be increased by thirty percent (30%) for an injury caused in any degree by the employer's intentional failure to comply with a statute or administrative regulation regarding

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safety methods or installation or maintenance of safety appliances that has been communicated to the employer, as provided in IC 22-3-2-8(c)."

Page 13, between lines 13 and 14, begin a new line block indented and insert:

"(12) With respect to injuries occurring on or after July 1, 2002, as provided in IC 22-3-2-8(b), each payment of monetary compensation allowed under this subsection shall be reduced by fifteen percent (15%) for an injury or a death caused in any degree by the employee's intentional:

(A) failure to use a safety appliance furnished by the employer; or

(B) failure to obey an order or administrative regulation of:

(i) the worker's compensation board; or

(ii) the employer;

for the safety of the employees or the public.

(13) With respect to injuries occurring on or after July 1, 2002, each payment of monetary compensation allowed under this subsection shall be increased by thirty percent (30%) for an injury or a death caused in any degree by the employer's intentional failure to comply with a statute or administrative regulation regarding safety methods or installation or maintenance of safety appliances that has been communicated to the employer, as provided in IC 22-3-2-8(c)."

Page 20, line 38, after "benefits," insert "**subject to IC 22-3-2-8,**"

Page 22, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 10. IC 22-3-7-2.5, AS ADDED BY P.L.235-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2.5. (a) As used in this section, "school to work student" refers to a student participating in on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).

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

(1) Medical benefits.

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

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

(A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars (\$175,000), **subject to section**

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19(u) of this chapter, payable upon agreement or final award to any dependents of the student under sections 11 through 14 of this chapter, or, if the student has no dependents, to the student's parents; and

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

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

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

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

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

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

(1) a school to work student; and

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

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

Page 37, between lines 16 and 17, begin a new paragraph and insert:

"(t) Each payment of monetary compensation due under this section shall be reduced by fifteen percent (15%) for an occupational disease or death resulting from an occupational disease caused in any degree by the employer's intentional:

(1) failure to use a safety appliance furnished by the employer; or

(2) failure to obey a lawful order or administrative regulation of:

(A) the worker's compensation board; or

(B) the employer;

for the safety of the employees or the public.

(u) Each payment of monetary compensation allowed under this section shall be increased by thirty percent (30%) for an occupational disease or a death resulting from an occupational disease caused in any degree by the employer's intentional failure to comply with a statute or administrative regulation regarding safety methods or installation or maintenance of safety appliances that has been communicated to the employer."

Page 45, line 37, after "chapter" insert ", **subject to section 21 of this chapter,**".



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Page 47, between lines 30 and 31, begin a new paragraph and insert:

"(x) Each payment of monetary compensation due under this section shall be reduced by fifteen percent (15%) for an occupational disease or a death resulting from an occupational disease caused in any degree by the employee's intentional:

(1) failure to use a safety appliance furnished by the employer; or

(2) failure to obey a lawful order or administrative regulation of:

(A) the worker's compensation board; or

(B) the employer;

for the safety of the employees or the public.

(y) Each payment of monetary compensation allowed under this section shall be increased by thirty percent (30%) for an occupational disease or a death resulting from an occupational disease caused in any degree by the employer's intentional failure to comply with a statute or administrative regulation regarding safety methods or installation or maintenance of safety appliances that has been communicated to the employer."

Page 47, delete lines 31 through 42, begin a new paragraph and insert:

"SECTION 15. IC 22-3-7-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 21. (a) No compensation is allowed for any condition of physical or mental ill-being, disability, disablement, or death for which compensation is recoverable on account of accidental injury under chapters 2 through 6 of this article.

(b) No compensation is allowed for any disease or death knowingly self-inflicted by the employee, or due to:

(1) his intoxication;

(2) his commission of an offense; his knowing failure to use a safety appliance;

(3) his knowing failure to obey a reasonable written or printed rule of the employer which has been posted in a conspicuous position in the place of work; or

(4) his knowing failure to perform any statutory duty.

The burden of proof is on the defendant.

(c) Each payment of monetary compensation allowed under sections 16 and 19 of this chapter shall be reduced by fifteen percent (15%) for an occupational disease or a death resulting from an occupational disease caused in any degree by the employee's intentional:

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(1) failure to use a safety appliance furnished by the employer; or

(2) failure to obey a lawful order or administrative regulation of:

(A) the worker's compensation board; or

(B) the employer;

for the safety of the employees or the public.

(d) Each payment of monetary compensation allowed under sections 16 and 19 of this chapter shall be increased by thirty percent (30%) for a disease or death caused in any degree by the employer's intentional failure to comply with a statute or administrative regulation that has been communicated to the employer regarding safety methods or installation or maintenance of safety appliances."

Renumber all SECTIONS consecutively.

(Reference is to HB 1313 as printed January 30, 2002.)

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