

Adopted	Rejected
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COMMITTEE REPORT

YES:	6
NO:	4

MR. SPEAKER:

*Your Committee on Employment and Labor, to which was referred Senate Bill 321, 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:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 5-28-27-3, AS ADDED BY P.L.202-2005,
- 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JANUARY 1, 2007]: Sec. 3. (a) The skills 2016 training fund is
- 6 established to do the following:
- 7 (1) Administer the costs of the skills 2016 training program
- 8 established under IC 22-4-10.5.
- 9 (2) Undertake any program or activity that furthers the purposes
- 10 of IC 22-4-10.5.
- 11 (3) Refund skills 2016 training assessments erroneously collected
- 12 and deposited in the fund.
- 13 (b) The money in the fund shall be allocated as follows:
- 14 (1) An amount to be determined annually shall be set aside for the
- 15 payment of refunds from the fund.
- 16 (2) The remainder of the money in the fund shall be allocated to

1 employers or consortiums for incumbent worker training grants
2 that enable workers to obtain recognizable credentials or
3 certifications and transferable employment skills that improve
4 employer competitiveness.

5 (c) Special consideration shall be given to the state educational
6 institution established under IC 20-12-61 to be the provider of the
7 training funded under this chapter whenever the state educational
8 institution:

- 9 (1) meets the identified training needs of an employer or a
10 consortium with an existing credentialing or certification program;
11 and
12 (2) is the most cost effective provider.

13 (d) For the incumbent worker training grants described in subsection
14 (b), the department of workforce development shall do the following:

- 15 (1) Provide grant applications to interested employers and
16 consortiums.
17 (2) Accept completed applications for the grants.
18 (3) Obtain all information necessary or appropriate to determine
19 whether an applicant qualifies for a grant, including information
20 concerning:
21 (A) the applicant;
22 (B) the training to be offered;
23 (C) the training provider; and
24 (D) the workers to be trained.
25 (4) Prepare summaries or other reports to assist the secretary of
26 commerce in reviewing the grant applications.

27 (e) The department of workforce development shall forward the
28 grant applications and other information collected or received by the
29 department under subsection (d) to the secretary of commerce who shall
30 allocate the money in the fund in accordance with subsections (b) and
31 (c), after considering the information provided by the department of
32 workforce development.

33 (f) The corporation shall enter into an agreement with the
34 department of workforce development for the department of workforce
35 development to administer the fund using money appropriated from the
36 fund.

37 (g) The treasurer of state shall invest the money in the fund not
38 currently needed to meet the obligations of the fund in the same manner

1 as other public money may be invested.

2 (h) Money in the fund at the end of a state fiscal year does not revert
3 to the state general fund.

4 (i) The fund consists of the following:

5 (1) Assessments deposited in the fund.

6 (2) Earnings acquired through the use of money belonging to the
7 fund.

8 (3) Money deposited in the fund from any other source.

9 (4) Interest and penalties collected.

10 (j) Any balance in the fund does not lapse but is available
11 continuously to the corporation for expenditures for the program
12 established under IC 22-4-10.5 consistent with this chapter, after
13 considering any information concerning an expenditure provided by the
14 department of workforce development.

15 **(k) An employer who makes the election described in**
16 **IC 22-4-10.5-3.2 is not eligible to receive an allocation from the**
17 **fund."**

18 Page 3, line 26, strike "his".

19 Page 3, line 26, after "his" insert "**the employing unit's**".

20 Page 5, between lines 11 and 12, begin a new paragraph and insert:
21 "SECTION 8. IC 22-4-8-3 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. "Employment" shall
23 not include the following:

24 ~~(a)~~ **(1)** Except as provided in section 2(i) of this chapter, service
25 performed prior to January 1, 1978, in the employ of this state,
26 any other state, any town or city, or political subdivision, or any
27 instrumentality of any of them, other than service performed in the
28 employ of a municipally owned public utility as defined in this
29 article; or service performed in the employ of the United States of
30 America, or an instrumentality of the United States immune under
31 the Constitution of the United States from the contributions
32 imposed by this article, except that to the extent that the Congress
33 of the United States shall permit states to require any
34 instrumentalities of the United States to make payments into a
35 unemployment fund under a state unemployment compensation
36 statute, all of the provisions of this article shall be applicable to
37 such instrumentalities, in the same manner, to the same extent, and
38 on the same terms as to all other employers, employing units,

1 individuals, and services. However, if this state shall not be
 2 certified for any year by the Secretary of Labor under Section
 3 3304 of the Internal Revenue Code the payments required of such
 4 instrumentalities with respect to such year shall be refunded by
 5 the commissioner from the fund in the same manner and within
 6 the same period as is provided in IC 22-4-32-19 with respect to
 7 contribution erroneously paid or wrongfully assessed.

8 ~~(b)~~ **(2)** Service with respect to which unemployment compensation
 9 is payable under an unemployment compensation system
 10 established by an Act of Congress; however, the ~~board~~
 11 **department** is authorized to enter into agreements with the proper
 12 agencies under such Act of Congress which agreements shall
 13 become effective ten (10) days after publication thereof, ~~in the~~
 14 ~~manner provided in IC 22-4-19-2 for rules of the board;~~ ~~in~~
 15 **accordance with rules adopted by the department under**
 16 **IC 4-22-2**, to provide reciprocal treatment to individuals who
 17 have, after acquiring potential rights to benefits under this article,
 18 acquired rights to unemployment compensation under such Act of
 19 Congress, or who have, after having acquired potential rights to
 20 unemployment compensation under such Act of Congress,
 21 acquired rights to benefits under this article.

22 ~~(c)~~ **(3)** "Agricultural labor" as provided in section 2(l)(1) of this
 23 chapter shall include only services performed:

24 ~~(i)~~ **(A)** on a farm, in the employ of any person, in connection
 25 with cultivating the soil or in connection with raising or
 26 harvesting any agricultural or horticultural commodity,
 27 including the raising, shearing, feeding, caring for, training,
 28 and management of livestock, bees, poultry, and furbearing
 29 animals and wildlife;

30 ~~(ii)~~ **(B)** in the employ of the owner or tenant or other operator
 31 of a farm, in connection with the operation, management,
 32 conservation, improvement, or maintenance of such farm and
 33 its tools and equipment, or in salvaging timber or clearing land
 34 of brush and other debris left by a hurricane, if the major part
 35 of such service is performed on a farm;

36 ~~(iii)~~ **(C)** in connection with the production or harvesting of any
 37 commodity defined as an agricultural commodity in Section
 38 15(g) of the Agricultural Marketing Act (**12 U.S.C. 1141j(g)**)

1 as amended, or in connection with the operation or
 2 maintenance of ditches, canals, reservoirs, or waterways, not
 3 owned or operated for profit, used exclusively for supplying
 4 and storing water for farming purposes;

5 ~~(iv)~~(A) **(D)** in the employ of:

6 (i) the operator of a farm in handling, planting, drying,
 7 packing, packaging, processing, freezing, grading, storing,
 8 or delivering to storage or to market or to a carrier for
 9 transportation to market, in its unmanufactured state, any
 10 agricultural or horticultural commodity; but only if such
 11 operator produced more than one-half (1/2) of the
 12 commodity with respect to which such service is performed;

13 **or**

14 ~~(B)~~ in the employ of (ii) a group of operators of farms (or a
 15 cooperative organization of which such operators are
 16 members) in the performance of service described in
 17 ~~subdivision (A)~~; **item (i)**, but only if such operators produce
 18 more than one-half (1/2) of the commodity with respect to
 19 which such service is performed;

20 ~~(C)~~ **except** the provisions of ~~subdivisions (A) and (B)~~ **items (i)**
 21 **and (ii)** shall not be deemed to be applicable with respect to
 22 service performed in connection with commercial canning or
 23 commercial freezing or in connection with any agricultural or
 24 horticultural commodity after its delivery to a terminal market
 25 for distribution for consumption; or

26 ~~(v)~~ **(E)** on a farm operated for profit if such service is not in the
 27 course of the employer's trade or business or is domestic
 28 service in a private home of the employer.

29 **(4)** As used in ~~this subsection~~, **subdivision (3)**, "farm" includes
 30 stock, dairy, poultry, fruit, furbearing animals, and truck farms,
 31 nurseries, orchards, greenhouses, or other similar structures used
 32 primarily for the raising of agricultural or horticultural
 33 commodities.

34 ~~(d)~~ **(5)** Domestic service in a private home, local college club, or
 35 local chapter of a college fraternity or sorority, except as provided
 36 in section 2(m) of this chapter.

37 ~~(e)~~ **(6)** Service performed on or in connection with a vessel or
 38 aircraft not an American vessel or American aircraft, if the

- 1 employee is employed on and in connection with such vessel or
 2 aircraft when outside the United States.
- 3 ~~(f)~~ **(7)** Service performed by an individual in the employ of child
 4 or spouse, and service performed by a child under the age of
 5 twenty-one (21) in the employ of a parent.
- 6 ~~(g)~~ **(8)** Service not in the course of the employing unit's trade or
 7 business performed in any calendar quarter by an individual,
 8 unless the cash remuneration paid for such service is fifty dollars
 9 (\$50) or more and such service is performed by an individual who
 10 is regularly employed by such employing unit to perform such
 11 service. For the purposes of this ~~subsection~~, **subdivision**, an
 12 individual shall be deemed to be regularly employed to perform
 13 service not in the course of an employing unit's trade or business
 14 during a calendar quarter only if:
- 15 ~~(i)~~ **(A)** on each of some of twenty-four (24) days during such
 16 quarter such individual performs such service for some portion
 17 of the day; or
- 18 ~~(ii)~~ **(B)** such individual was regularly employed (as determined
 19 under clause ~~(i)~~ **(A)**) by such employing unit in the
 20 performance of such service during the preceding calendar
 21 quarter.
- 22 ~~(h)~~ **(9)** Service performed by an individual in any calendar quarter
 23 in the employ of any organization exempt from income tax under
 24 Section 501 of the Internal Revenue Code (except those services
 25 included in sections 2(i) and 2(j) of this chapter if the
 26 remuneration for such service is less than fifty dollars (\$50)).
- 27 ~~(i)~~ **(10)** Service performed in the employ of a hospital, if such
 28 service is performed by a patient of such hospital.
- 29 ~~(j)~~ **(11)** Service performed in the employ of a school, college, or
 30 university if such service is performed:
- 31 ~~(i)~~ **(A)** by a student who is enrolled and is regularly attending
 32 classes at such school, college, or university; or
- 33 ~~(ii)~~ **(B)** by the spouse of such a student, if such spouse is
 34 advised, at the time such spouse commences to perform such
 35 service, that:
- 36 ~~(A)~~ **(i)** the employment of such spouse to perform such
 37 service is provided under a program to provide financial
 38 assistance to such student by such school, college, or

- 1 university; and
- 2 ~~(B)~~ **(ii)** such employment will not be covered by any
- 3 program of unemployment insurance.
- 4 ~~(k)~~ **(12)** Service performed by an individual who is enrolled at a
- 5 nonprofit or public educational institution which normally
- 6 maintains a regular faculty and curriculum and normally has a
- 7 regularly organized body of students in attendance at the place
- 8 where its educational activities are carried on as a student in a
- 9 full-time program, taken for credit at such institution, which
- 10 combines academic instruction with work experience, if such
- 11 service is an integral part of such program, and such institution
- 12 has so certified to the employer, except that this subsection shall
- 13 not apply to service performed in a program established for or on
- 14 behalf of an employer or group of employers.
- 15 ~~(h)~~ **(13)** Service performed in the employ of a government foreign
- 16 to the United States of America, including service as a consular or
- 17 other officer or employee or a nondiplomatic representative.
- 18 ~~(m)~~ **(14)** Service performed in the employ of an instrumentality
- 19 wholly owned by a government foreign to that of the United
- 20 States of America, if the service is of a character similar to that
- 21 performed in foreign countries by employees of the United States
- 22 of America or of an instrumentality thereof, and if the board finds
- 23 that the Secretary of State of the United States has certified to the
- 24 Secretary of the Treasury of the United States that the
- 25 government, foreign to the United States, with respect to whose
- 26 instrumentality exemption is claimed, grants an equivalent
- 27 exemption with respect to similar service performed in such
- 28 country by employees of the United States and of instrumentalities
- 29 thereof.
- 30 ~~(n)~~ **(15)** Service performed as a student nurse in the employ of a
- 31 hospital or nurses' training school by an individual who is enrolled
- 32 and is regularly attending classes in a nurses' training school
- 33 chartered or approved pursuant to state law; and service
- 34 performed as an intern in the employ of a hospital by an
- 35 individual who has completed a four (4) year course in a medical
- 36 school chartered or approved pursuant to state law.
- 37 ~~(o)~~ **(16)** Service performed by an individual as an insurance
- 38 producer or as an insurance solicitor, if all such service performed

- 1 by such individual is performed for remuneration solely by way
 2 of commission.
- 3 ~~(p)~~**(A)** **(17)** Service performed by an individual:
- 4 **(A)** under the age of eighteen (18) in the delivery or
 5 distribution of newspapers or shopping news, not including
 6 delivery or distribution to any point for subsequent delivery or
 7 distribution; **or**
- 8 **(B)** ~~Services performed by an individual~~ in, and at the time of,
 9 the sale of newspapers or magazines to ultimate consumers,
 10 under an arrangement under which the newspapers or
 11 magazines are to be sold by ~~him~~ **the individual** at a fixed
 12 price, ~~his~~ **the individual's** compensation being based on the
 13 retention of the excess of such price over the amount at which
 14 the newspapers or magazines are charged to ~~him~~, **the**
 15 **individual**, whether or not ~~he~~ **the individual** is guaranteed a
 16 minimum amount of compensation for such service, or is
 17 entitled to be credited with the unsold newspapers or
 18 magazines turned back.
- 19 ~~(q)~~ **(18)** Service performed in the employ of an international
 20 organization.
- 21 ~~(r)~~ **(19)** Except as provided in IC 22-4-7-1, services covered by an
 22 election duly approved by the agency charged with the
 23 administration of any other state or federal unemployment
 24 compensation law in accordance with an arrangement pursuant to
 25 IC 22-4-22-1 through IC 22-4-22-5, during the effective period of
 26 such election.
- 27 ~~(s)~~ **(20)** If the service performed during one-half (1/2) or more of
 28 any pay period by an individual for an employing unit constitutes
 29 employment, all the services of such individual for such period
 30 shall be deemed to be employment; but if the services performed
 31 during more than one-half (1/2) of any pay period by such an
 32 individual do not constitute employment, then none of the services
 33 of such individual for such period shall be deemed to be
 34 employment. As used in this subsection, "pay period" means a
 35 period of not more than thirty-one (31) consecutive days for
 36 which a payment of remuneration is ordinarily made to the
 37 individual by the employing unit. This subsection shall not be
 38 applicable with respect to services performed in a pay period by

1 any such individual where any such service is excepted by
2 subsection (b): **subdivision (2).**

3 ~~(†)~~ **(21)** Service performed by an inmate of a custodial or penal
4 institution.

5 ~~(†)~~ **(22)** Service performed as a precinct election officer (as
6 defined in IC 3-5-2-40.1).".

7 Page 8, line 17, delete "the following percentage of" and insert "~~the~~
8 following percentage of".

9 Page 10, between lines 6 and 7, begin a new paragraph and insert:

10 "SECTION 15. IC 22-4-10.5-3 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. The skills 2016
12 training assessment is nine hundredths percent (0.09%) to be assessed
13 upon the previous year's taxable wages (as defined in IC 22-4-4-2) paid
14 by all employers except those who have:

15 **(1) made the election described in section 3.2 of this chapter;**

16 **or**

17 **(2) elected to make payments in lieu of contributions (as defined**
18 **in IC 22-4-2-32).**

19 SECTION 16. IC 22-4-10.5-3.2 IS ADDED TO THE INDIANA
20 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
21 [EFFECTIVE JANUARY 1, 2007]: **Sec. 3.2. (a) This section applies**
22 **to skills 2016 training assessments payable after July 1, 2007.**

23 **(b) As used in this section, "employee" means any person**
24 **employed by another for wages or salary. The term does not**
25 **include a seasonal worker (as defined in IC 22-4-8-4(b)).**

26 **(c) An employer subject to this chapter that employs less than**
27 **twenty (20) full-time employees may file an election each year not**
28 **to:**

29 **(1) participate in the skills 2016 training program; and**

30 **(2) pay the skills 2016 training assessments;**

31 **with the department on a form prescribed by the commissioner.**

32 **(d) An employer must make the election described in subsection**
33 **(c) for a calendar year not later than January 31 of the following**
34 **year.**

35 **(e) For purposes of determining whether an employer qualifies**
36 **to make the election under subsection (c), the number of employees**
37 **employed by the employer is the average of the number of**
38 **employees reported by the employer for each quarter of the**

- 1 **calendar year for which the employer wants to elect not to:**
 2 **(1) participate in the skills 2016 training program; and**
 3 **(2) pay the skills 2016 training assessments.**

4 SECTION 17. IC 22-4-10.5-4 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. **(a) This**
 6 **section does not apply to an employer who has made the election**
 7 **described in section 3.2 of this chapter.**

8 ~~(a)~~ **(b)** Skills 2016 training assessments accrue and are payable by
 9 each employer under section 3 of this chapter for each calendar year in
 10 which the employer is subject to IC 22-4-10-1 with respect to wages for
 11 employment.

12 ~~(b)~~ **(c)** Skills 2016 training assessments are due and payable to the
 13 department by each employer for the purposes set forth in section 2 of
 14 this chapter and are not deductible, in whole or in part, from the wages
 15 of individuals in the service of the employer.

16 ~~(c)~~ **(d)** Skills 2016 training assessments paid under this chapter:
 17 (1) shall not be credited to the employer's experience account; and
 18 (2) do not affect the computation of an employer's contribution
 19 rate under IC 22-4-11-2."

20 Page 13, line 25, delete "chapter" and insert "~~chapter~~".

21 Page 15, line 7, delete "special".

22 Page 19, line 20, delete "decision to seek repayment of benefits or".

23 Page 19, line 21, delete "a civil penalty" and insert "**determination**".

24 Page 19, line 22, delete "IC 22-4-32-4" and insert "**IC 22-4-17-2(e)**".

25 Page 19, line 23, delete "IC 22-4-32-1" and insert "**IC 22-4-17-3**".

26 Page 19, line 23, delete "IC 22-4-32-15." and insert "**IC**
 27 **22-4-17-15.**".

28 Page 20, between lines 7 and 8, begin a new paragraph and insert:

29 "**(d) An individual who is receiving benefits as determined under**
 30 **IC 22-4-15-1(c)(8) is entitled to complete the reporting, counseling,**
 31 **or training that must be conducted in person at a one stop center**
 32 **selected by the individual. The department shall advise an eligible**
 33 **individual that this option is available.**".

34 Page 20, line 13, delete "abuse." and insert "**or family violence (as**
 35 **defined in IC 31-9-2-42).**".

36 Page 29, line 15, strike "he".

37 Page 29, line 15, after "he" insert "**the member**".

38 Page 32, between lines 13 and 14, begin a new paragraph and insert:

1 **"(i) An employer or agent of an employer that becomes aware**
 2 **that a claim has been made under IC 22-4-15-1(c)(8) shall maintain**
 3 **that information as confidential."**

4 Page 33, between lines 39 and 40, begin a new paragraph and insert:

5 "SECTION 46. IC 22-4-22-3 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The commissioner
 7 is authorized to enter into reciprocal agreements with the proper
 8 agencies under the laws of other states or jurisdictions or of the United
 9 States, which agreements shall become effective after filing with the
 10 secretary of state pursuant to ~~IC 22-4-19-2~~, **in accordance with rules**
 11 **adopted by the department under IC 4-22-2**, by the terms of which
 12 agreements:

13 (1) potential rights to benefits accumulated under the
 14 unemployment compensation laws of one (1) or more states or
 15 jurisdictions or of the United States, or both, may constitute the
 16 basis for the payment of benefits through a single appropriate
 17 agency under terms which the commissioner finds will be fair and
 18 reasonable to all affected interests and which will not result in any
 19 substantial loss to the fund; and

20 (2) wages or services in employment subject to an unemployment
 21 compensation law of another state or of the United States shall be
 22 deemed to be wages in employment for employers for the purpose
 23 of determining an individual's rights to unemployment
 24 compensation benefits under this article, and wages in
 25 employment for employers as defined in this article shall be
 26 deemed to be wages or services on the basis of which
 27 unemployment compensation under the law of another state or of
 28 the United States is payable, but no such arrangement shall be
 29 entered into unless it contains provisions for reimbursements to
 30 the unemployment insurance benefit fund for such of the
 31 unemployment compensation benefits paid under this part upon
 32 the basis of such wages or services, and provisions for
 33 reimbursements from the unemployment insurance benefit fund
 34 for such of the compensation paid under such other law upon the
 35 basis of wages for employment as defined in this article as the
 36 commissioner finds will be fair and reasonable to all affected
 37 interests."

38 Page 39, line 23, after "for adjustment" delete "of" and insert "**or**".

- 1 Page 43, delete lines 8 through 9, begin a new paragraph and insert:
- 2 "SECTION 69. THE FOLLOWING ARE REPEALED
- 3 [EFFECTIVE JULY 1, 2006]: IC 22-4-16-1; IC 22-4-19-2;
- 4 IC 22-4-19-3."
- 5 Renumber all SECTIONS consecutively.
(Reference is to SB 321 as reprinted January 25, 2006.)

and when so amended that said bill do pass.

Representative Torr