

# SENATE BILL No. 308

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-4.

**Synopsis:** Unemployment benefits. Reinstates unemployment benefits for persons who provide services performed in an instructional, research, or principal administrative capacity for an educational institution.

**Effective:** July 1, 2020.

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## Niezgodski

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January 9, 2020, read first time and referred to Committee on Pensions and Labor.

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Second Regular Session of the 121st General Assembly (2020)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

# SENATE BILL No. 308

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

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

1 SECTION 1. IC 22-4-3-5, AS AMENDED BY P.L.121-2014,  
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2020]: Sec. 5. (a) Subject to subsection (b), an individual is  
4 not totally unemployed, part-totally unemployed, or partially  
5 unemployed for any week in which the department finds the individual:  
6 (1) is on a vacation week; and  
7 (2) has not received remuneration from the employer for that  
8 week, because of:  
9 (A) a written contract between the employer and the  
10 employees; or  
11 (B) the employer's regular vacation policy and practice.  
12 (b) Subsection (a) applies only if the department finds that the  
13 individual has a reasonable assurance that the individual will have  
14 employment available with the employer after the vacation period ends.  
15 **This subsection does not apply to services performed in an**  
16 **instructional, research, or principal administrative capacity for an**  
17 **educational institution.**



1 SECTION 2. IC 22-4-14-7, AS AMENDED BY P.L.2-2011,  
 2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2020]: Sec. 7. (a) Benefits based on service in employment  
 4 defined in IC 22-4-8-2(i) and IC 22-4-8-2(j) shall be payable in the  
 5 same amount, on the terms, and subject to the same conditions as  
 6 compensation payable on the basis of other service subject to this  
 7 article, unless otherwise specifically provided, subject to the following  
 8 exceptions:

9 ~~(1)~~ With respect to service performed in an instructional;  
 10 research; or principal administrative capacity for an educational  
 11 institution; benefits may not be paid based on the service for any  
 12 week of unemployment commencing during the period between  
 13 two ~~(2)~~ successive academic years; or terms; or during the period  
 14 between two ~~(2)~~ regular but not successive terms; or during a  
 15 period of paid sabbatical leave provided for in the individual's  
 16 contract; to any individual if the individual performs the services  
 17 in the first of the academic years or terms and if there is a  
 18 reasonable assurance that the individual will perform services in  
 19 an instructional; research; or principal administrative capacity for  
 20 any educational institution in the second of the academic years or  
 21 terms:

22 ~~(2)~~ **(1)** With respect to services performed in any capacity ~~(other~~  
 23 ~~than those listed in subdivision (1) of this section)~~ for an  
 24 educational institution, benefits may not be paid based on the  
 25 service of an individual for any week which commences during  
 26 a period between two (2) successive academic years or terms if  
 27 the individual performs the service in the first of the academic  
 28 years or terms and there is reasonable assurance that the  
 29 individual will perform the service in the second of the academic  
 30 years or terms. However, with respect to weeks of unemployment  
 31 beginning on or after January 1, 1984, if compensation is denied  
 32 to any individual under this subdivision and the individual was  
 33 not offered an opportunity to perform such services for the  
 34 educational institution for the second of the academic years or  
 35 terms, the individual is entitled to a retroactive payment of  
 36 compensation for each week for which the individual filed a  
 37 timely claim for compensation and for which compensation was  
 38 denied solely by reason of this subdivision.

39 ~~(3)~~ **(2)** With respect to any services described in subdivision (1),  
 40 ~~or (2)~~; compensation payable for these services shall be denied to  
 41 any individual for any week which commences during an  
 42 established and customary vacation period or holiday recess if



1           there is reasonable assurance that the individual will perform the  
2           services in the period immediately following the vacation period  
3           or holiday recess.

4           ~~(4)~~ **(3)** With respect to any services described in ~~subdivisions~~  
5           **subdivision** (1), ~~and (2)~~; benefits shall not be payable on the basis  
6           of services in any such capacities as specified in subdivisions (1)  
7           ~~(2)~~; and ~~(3)~~; **(2)** to any individual who performed such services in  
8           an educational institution while in the employ of an educational  
9           service agency. For purposes of this subdivision, the term  
10          "educational service agency" means a governmental agency or  
11          governmental entity that is established and operated exclusively  
12          for the purpose of providing such services to one (1) or more  
13          educational institutions.

14          ~~(5)~~ **(4)** For services to which 26 U.S.C. 3309(a)(1) applies, if the  
15          services are provided to or on behalf of an educational institution,  
16          compensation payable based on the services may be denied as  
17          specified in subdivisions (1), (2), **and** (3). ~~and (4)~~.

18          (b) For purposes of this section, benefits may not be denied during  
19          the period between academic years or terms to any individual having  
20          wage credits earned with other than an educational institution if the  
21          wage credits qualify the individual under section 5 of this chapter and  
22          the individual is otherwise eligible. In these cases, the claim shall be  
23          computed based on the wage credits earned with employers other than  
24          educational institutions reported for the individual during the base  
25          period, in accordance with IC 22-4-12-2 and IC 22-4-12-4. Benefits  
26          paid based on the computation shall be only for weeks of  
27          unemployment occurring between academic years or terms. For any  
28          weeks of unemployment claims other than between academic years or  
29          terms, the claims of these individuals shall be recomputed to include  
30          all base period wages.

