



January 14, 2000

HOUSE BILL No. 1043

DIGEST OF HB 1043 (Updated January 12, 2000 1:59 PM - DI 84)

Citations Affected: IC 6-3.5; IC 22-4.

Synopsis: Unemployment insurance. Increases the earnings base used to compute unemployment compensation over three years to a maximum of \$10,000 in a calendar quarter. Provides that the maximum total amount of unemployment compensation benefits payable may not exceed 26 times the individual's weekly benefit, or 32% of the individual's wage credits with respect to the individual's base period, whichever is less. Decreases the minimum wage credit necessary to qualify for unemployment compensation to \$2,000 in the base period, and requires the total wage credits in the base period to equal at least one and one-quarter times the wages paid in the highest quarter. Eliminates the one week waiting period for unemployment compensation. Eliminates the 25% reduction of unemployment compensation award for disqualifying conditions and failure to find work. Revises disqualification provisions for unemployment compensation. Makes conforming amendments.

Effective: July 1, 2000.

Stilwell

November 23, 1999, read first time and referred to Committee on Labor and Employment.
January 13, 2000, amended, reported — Do Pass.

HB 1043—LS 6514/DI 96+



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January 14, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

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HOUSE BILL No. 1043

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 6-3.5-1.1-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) Except as
3 provided in subsections (b) through (c), if the county adjusted gross
4 income tax is not in effect during a county taxpayer's entire taxable
5 year, then the amount of county adjusted gross income tax that the
6 county taxpayer owes for that taxable year equals the product of:
7 (1) the amount of county adjusted gross income tax the county
8 taxpayer would owe if the tax had been imposed during the
9 county taxpayer's entire taxable year; multiplied by
10 (2) a fraction:
11 (A) The numerator of the fraction equals the number of days
12 during the county taxpayer's taxable year during which the
13 county adjusted gross income tax was in effect.
14 (B) The denominator of the fraction equals the total number of
15 days in the county taxpayer's taxable year.
16 (b) If a county taxpayer:
17 (1) is unemployed for a part of the taxpayer's taxable year;

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1 (2) was not discharged for just cause (as defined in
2 ~~IC 22-4-15-1(c)~~; **IC 22-4-15-1(c)**); and

3 (3) has no earned income for the part of the taxpayer's taxable
4 year that the tax was in effect;

5 the county taxpayer's adjusted gross income for the taxable year is
6 reduced by the amount of the taxpayer's earned income for the taxable
7 year.

8 (c) A taxpayer who qualifies under subsection (b) must file a claim
9 for a refund for the difference between the county adjusted gross
10 income tax owed, as determined under subsection (a), and the tax
11 owed, as determined under subsection (b). A claim for a refund must
12 be on a form approved by the department and include all supporting
13 documentation reasonably required by the department.

14 SECTION 2. IC 22-4-2-12 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. "Base period"
16 means the first four (4) of the last five (5) completed calendar quarters
17 immediately preceding the first day of an individual's benefit period.
18 ~~Provided, However, That~~ for a claim computed in accordance with
19 ~~IC 1971, 22-4-22~~, the base period shall be the base period as outlined
20 in the paying state's law.

21 SECTION 3. IC 22-4-2-22 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 22. "Valid claim"
23 means a claim filed by an individual who has established qualifying
24 wage credits and who is totally, partially, or part-totally unemployed.
25 ~~Provided, However,~~ no individual in a benefit period may file a valid
26 claim for a ~~waiting period~~ or benefit period rights with respect to any
27 period subsequent to the expiration of such benefit period.

28 SECTION 4. IC 22-4-2-29 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 29. "Insured
30 unemployment" means unemployment during a given week for which
31 ~~waiting period credit~~ or benefits are claimed under the state
32 employment security program, the unemployment compensation for
33 federal employees program, the unemployment compensation for
34 veterans program, or the railroad unemployment insurance program.

35 SECTION 5. IC 22-4-4-2 IS AMENDED TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) Except as otherwise provided
37 in this section, "wages" means all remuneration as defined in section
38 1 of this chapter paid to an individual by an employer, remuneration
39 received as tips or gratuities in accordance with Sections ~~3301 and~~
40 ~~3102 and 3301~~ et seq. of the Internal Revenue Code, and includes all
41 remuneration considered as wages under Sections ~~3301 and~~ ~~3102 and~~
42 ~~3301~~ et seq. of the Internal Revenue Code. However, the term shall not

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1 include any amounts paid as compensation for services specifically
 2 excluded by IC 22-4-8-3 from the definition of employment as defined
 3 in IC 22-4-8-1 and IC 22-4-8-2. The term shall include, but not be
 4 limited to, any payments made by an employer to an employee or
 5 former employee, under order of the National Labor Relations Board,
 6 or a successor thereto, or agency named to perform the duties thereof,
 7 as additional pay, back pay, or for loss of employment, or any such
 8 payments made in accordance with an agreement made and entered
 9 into by an employer, a union, and the National Labor Relations Board.

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

11 (1) That part of remuneration which, after remuneration equal to
 12 seven thousand dollars (\$7,000), has been paid in a calendar year
 13 to an individual by an employer or his predecessor with respect to
 14 employment during any calendar year subsequent to December
 15 31, 1982, unless that part of the remuneration is subject to a tax
 16 under a federal law imposing a tax against which credit may be
 17 taken for contributions required to be paid into a state
 18 unemployment fund. For the purposes of this subdivision, the
 19 term "employment" shall include service constituting employment
 20 under any employment security law of any state or of the federal
 21 government. However, nothing in this subdivision shall be taken
 22 as an approval or disapproval of any related federal legislation.

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

32 (A) retirement;

33 (B) sickness or accident disability;

34 (C) medical or hospitalization expenses in connection with
 35 sickness or accident disability; or

36 (D) death.

37 (3) The amount of any payment made by an employer to an
 38 individual performing service for it (including any amount paid
 39 by an employer for insurance or annuities or into a fund to
 40 provide for any such payment) on account of retirement.

41 (4) The amount of any payment on account of sickness or accident
 42 disability, or medical or hospitalization expenses in connection

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1 with sickness or accident disability made by an employer to, or on
 2 behalf of, an individual performing services for it and after the
 3 expiration of six (6) calendar months following the last calendar
 4 month in which the individual performed services for such
 5 employer.

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

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

14 (B) under or to an annuity plan which, at the time of such
 15 payments, meets the requirements of Section 401(a)(3),
 16 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue
 17 Code.

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

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

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

29 SECTION 6. IC 22-4-4-3 IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) For calendar quarters
 31 beginning on and after April 1, 1979, and before April 1, 1984, "wage
 32 credits" means remuneration paid for employment by an employer to
 33 an individual. Wage credits may not exceed three thousand six hundred
 34 sixty-six dollars (\$3,666) and may not include payments specified in
 35 section 2(b) of this chapter.

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

41 (c) For calendar quarters beginning on and after April 1, 1985, and
 42 before January 1, 1991, "wage credits" means remuneration paid for

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1 employment by an employer to an individual. Wage credits may not
 2 exceed four thousand one hundred eighty-six dollars (\$4,186) and may
 3 not include payments specified in section 2(b) of this chapter.

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

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

16 (f) For calendar quarters beginning on and after July 1, 1997, and
 17 before July 1, 1998, "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 ~~3301 and~~
 20 ~~3102 and 3301~~ et seq. of the Internal Revenue Code. Wage credits may
 21 not exceed five thousand four hundred dollars (\$5,400) and may not
 22 include payments specified in section 2(b) of this chapter.

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

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

39 (i) **For calendar quarters beginning on and after July 1, 2000,**
 40 **and before July 1, 2001, "wage credits" means remuneration paid**
 41 **for employment by an employer to an individual and remuneration**
 42 **received as tips or gratuities in accordance with Sections 3102 and**

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1 **3301 et seq. of the Internal Revenue Code. Wage credits may not**
 2 **exceed seven thousand two hundred dollars (\$7,200) and may not**
 3 **include payments that are excluded from the definition of wages**
 4 **under section 2(b) of this chapter.**

5 **(j) For calendar quarters beginning on and after July 1, 2001,**
 6 **and before July 1, 2002, "wage credits" means remuneration paid**
 7 **for employment by an employer to an individual and remuneration**
 8 **received as tips or gratuities in accordance with Sections 3102 and**
 9 **3301 et seq. of the Internal Revenue Code. Wage credits may not**
 10 **exceed eight thousand six hundred dollars (\$8,600) and may not**
 11 **include payments that are excluded from the definition of wages**
 12 **under section 2(b) of this chapter.**

13 **(k) For calendar quarters beginning on and after July 1, 2002,**
 14 **"wage credits" means remuneration paid for employment by an**
 15 **employer to an individual and remuneration received as tips or**
 16 **gratuities in accordance with Sections 3102 and 3301 et seq. of the**
 17 **Internal Revenue Code. Wage credits may not exceed ten thousand**
 18 **dollars (\$10,000) and may not include payments that are excluded**
 19 **from the definition of wages under section 2(b) of this chapter.**

20 SECTION 7. IC 22-4-12-4 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) Benefits shall be
 22 computed upon the basis of wage credits of an individual in ~~his~~ **the**
 23 **individual's** base period. Wage credits shall be reported by the
 24 employer and credited to the individual in the manner prescribed by the
 25 board. With respect to initial claims filed for any week beginning on
 26 and after July 4, 1959, and before July 7, 1991, the maximum total
 27 amount of benefits payable to any eligible individual during any benefit
 28 period shall not exceed twenty-six (26) times ~~his~~ **the individual's**
 29 weekly benefit, or twenty-five percent (25%) of ~~his~~ **the individual's**
 30 wage credits with respect to ~~his~~ **the individual's** base period,
 31 whichever is ~~the lesser~~ **less**.

32 **(b) With respect to initial claims filed for any week beginning on**
 33 **and after July 7, 1991, and before July 1, 2000, the maximum total**
 34 **amount of benefits payable to any eligible individual during any benefit**
 35 **period shall not exceed twenty-six (26) times the individual's weekly**
 36 **benefit, or twenty-eight percent (28%) of the individual's wage credits**
 37 **with respect to the individual's base period, whichever is less. If such**
 38 **maximum total amount of benefits is not a multiple of one dollar (\$1),**
 39 **it shall be computed to the next lower multiple of one dollar (\$1).**

40 **(c) With respect to initial claims filed for any week beginning on**
 41 **and after July 1, 2000, the maximum total amount of benefits**
 42 **payable to any eligible individual during any benefit period may**

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1 **not exceed twenty-six (26) times the individual's weekly benefit, or**
 2 **thirty-two percent (32%) of the individual's wage credits with**
 3 **respect to the individual's base period, whichever is less. If the**
 4 **maximum total amount of benefits is not a multiple of one dollar**
 5 **(\$1), it shall be computed to the next lower multiple of one dollar**
 6 **(\$1).**

7 ~~(b)~~ **(d)** The total extended benefit amount payable to any eligible
 8 individual with respect to ~~his~~ **the individual's** applicable benefit period
 9 shall be fifty percent (50%) of the total amount of regular benefits
 10 (including dependents' allowances) which were payable to ~~him~~ **the**
 11 **individual** under this article in the applicable benefit year, or thirteen
 12 (13) times the weekly benefit amount (including dependents'
 13 allowances) which was payable to ~~him~~ **the individual** under this article
 14 for a week of total unemployment in the applicable benefit year,
 15 whichever is ~~the lesser amount less~~.

16 ~~(c)~~ **(e)** This subsection applies to individuals who file a disaster
 17 unemployment claim or a state unemployment insurance claim after
 18 June 1, 1990, and before June 2, 1991, or during another time specified
 19 in another state statute. An individual is entitled to thirteen (13) weeks
 20 of additional benefits, as originally determined, if:

21 (1) the individual has established:

22 (A) a disaster unemployment claim under the Stafford Disaster
 23 Relief and Emergency Assistance Act; or

24 (B) a state unemployment insurance claim as a direct result of
 25 a major disaster;

26 (2) all regular benefits and all disaster unemployment assistance
 27 benefits:

28 (A) have been exhausted by the individual; or

29 (B) are no longer payable to the individual due to the
 30 expiration of the disaster assistance period; and

31 (3) the individual remains unemployed as a direct result of the
 32 disaster.

33 SECTION 8. IC 22-4-14-5 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) As further
 35 conditions precedent to the payment of benefits to an individual with
 36 respect to benefit periods established on and after July 6, 1980, and
 37 before July 7, 1985:

38 (1) the individual must have established, after the last day of ~~his~~
 39 **the individual's** last base period, if any, wage credits (as defined
 40 in IC 22-4-4-3) and within the meaning of IC 22-4-22-3 equal to
 41 at least one and one-quarter (1.25) times the wages paid to ~~him~~
 42 **the individual** in the calendar quarter in which ~~his~~ **the**

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- 1 **individual's** wages were highest; and
 2 (2) the individual must have established wage credits in the last
 3 two (2) calendar quarters of ~~his~~ **the individual's** base period in a
 4 total amount of not less than nine hundred dollars (\$900) and an
 5 aggregate amount in the four (4) calendar quarters of ~~his~~ **the**
 6 **individual's** base period of not less than one thousand five
 7 hundred dollars (\$1,500).
 8 (b) As further conditions precedent to the payment of benefits to an
 9 individual with respect to benefit periods established on and after July
 10 7, 1985, and before January 1, 1992:
 11 (1) the individual must have established, after the last day of the
 12 individual's last base period, if any, wage credits (as defined in
 13 IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at
 14 least one and one-half (1.5) times the wages paid to the individual
 15 in the calendar quarter in which the individual's wages were
 16 highest; and
 17 (2) the individual must have established wage credits in the last
 18 two (2) calendar quarters of the individual's base period in a total
 19 amount of not less than one thousand five hundred dollars
 20 (\$1,500) and an aggregate amount in the four (4) calendar
 21 quarters of the individual's base period of not less than two
 22 thousand five hundred dollars (\$2,500).
 23 (c) As further conditions precedent to the payment of benefits to an
 24 individual with respect to benefit periods established on and after
 25 January 1, 1992, and before July 1, 1995:
 26 (1) the individual must have established, after the last day of the
 27 individual's last base period, if any, wage credits (as defined in
 28 IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at
 29 least one and one-quarter (1.25) times the wages paid to the
 30 individual in the calendar quarter in which the individual's wages
 31 were highest; and
 32 (2) the individual must have established wage credits in the last
 33 two (2) calendar quarters of the individual's base period in a total
 34 amount of not less than one thousand five hundred dollars
 35 (\$1,500) and an aggregate in the four (4) calendar quarters of the
 36 individual's base period of not less than two thousand five
 37 hundred dollars (\$2,500).
 38 (d) As further conditions precedent to the payment of benefits to an
 39 individual with respect to benefit periods established on and after July
 40 1, 1995, **and before July 1, 2000:**
 41 (1) the individual must have established, after the last day of the
 42 individual's last base period, if any, wage credits (as defined in

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1 IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at
 2 least one and one-quarter (1.25) times the wages paid to the
 3 individual in the calendar quarter in which the individual's wages
 4 were highest; and

5 (2) the individual must have established wage credits in the last
 6 two (2) calendar quarters of the individual's base period in a total
 7 amount of not less than one thousand six hundred fifty dollars
 8 (\$1,650) and an aggregate in the four (4) calendar quarters of the
 9 individual's base period of not less than two thousand seven
 10 hundred fifty dollars (\$2,750).

11 **(e) As further conditions precedent to the payment of benefits**
 12 **to an individual with respect to benefit periods established on and**
 13 **after July 1, 2000:**

14 **(1) the individual must have established, after the last day of**
 15 **the individual's last base period, if any, wage credits (as**
 16 **defined in IC 22-4-4-3 and within the meaning of**
 17 **IC 22-4-22-3) equal to at least one and one-quarter (1.25)**
 18 **times the wages paid to the individual in the calendar quarter**
 19 **in which the individual's wages were highest; and**

20 **(2) the individual must have established wage credits in an**
 21 **aggregate in the four (4) calendar quarters of the individual's**
 22 **base period of not less than two thousand dollars (\$2,000).**

23 **(f)** As a further condition precedent to the payment of benefits to an
 24 individual with respect to a benefit year established on and after July
 25 1, 1995, an insured worker may not receive benefits in a benefit year
 26 unless after the beginning of the immediately preceding benefit year
 27 during which the individual received benefits, the individual performed
 28 insured work and earned wages in employment under IC 22-4-8 in an
 29 amount not less than the individual's weekly benefit amount established
 30 for the individual in the preceding benefit year in each of eight (8)
 31 weeks.

32 SECTION 9. IC 22-4-15-1 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) With respect to
 34 benefit periods established on and after July 6, 1980, an individual who
 35 has voluntarily left his employment without good cause in connection
 36 with the work or who was discharged from his employment for just
 37 cause is ineligible for ~~waiting period~~ or benefit rights for the week in
 38 which the disqualifying separation occurred and until he has earned
 39 remuneration in employment equal to or exceeding the weekly benefit
 40 amount of his claim in each of eight (8) weeks. If the qualification
 41 amount has not been earned at the expiration of an individual's benefit
 42 period, the unearned amount shall be carried forward to an extended



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1 benefit period or to the benefit period of a subsequent claim.

2 (b) When it has been determined that an individual has been
3 separated from employment under disqualifying conditions as outlined
4 in this section, the maximum benefit amount of his current claim, as
5 initially determined, shall be reduced by twenty-five percent (25%); If
6 twenty-five percent (25%) of the maximum benefit amount is not an
7 even dollar amount, the amount of such reduction will be raised to the
8 next higher even dollar amount. When twenty-five percent (25%) of the
9 maximum benefit amount, as initially determined, exceeds the unpaid
10 balance remaining in the claim, such reduction will be limited to the
11 unpaid balance.

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

14 (1) An individual shall not be subject to disqualification because
15 of separation from his prior employment if:

16 (A) he left to accept with another employer previously secured
17 permanent full-time work which offered reasonable
18 expectation of betterment of wages or working conditions and
19 thereafter was employed on said job for not less than ten (10)
20 weeks; **discharged from employment without just cause (as**
21 **defined in subsection (c));**

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

27 (C) he left to accept recall made by a base-period employer.

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

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

36 (4) An individual whose employment is terminated under the
37 compulsory retirement provision of a collective bargaining
38 agreement to which the employer is a party, or under any other
39 plan, system, or program, public or private, providing for
40 compulsory retirement and who is otherwise eligible shall not be
41 deemed to have left his work voluntarily without good cause in
42 connection with the work. However, if such individual



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1 subsequently becomes reemployed and thereafter voluntarily
 2 leaves work without good cause in connection with the work, he
 3 shall be deemed ineligible as outlined in this section.

4 (5) An otherwise eligible individual shall not be denied benefits
 5 for any week because he is in training approved under Section
 6 236(a)(1) of the Trade Act of 1974, nor shall the individual be
 7 denied benefits by reason of leaving work to enter such training,
 8 provided the work left is not suitable employment, or because of
 9 the application to any week in training of provisions in this law
 10 (or any applicable federal unemployment compensation law),
 11 relating to availability for work, active search for work, or refusal
 12 to accept work. For purposes of this subdivision, the term
 13 "suitable employment" means with respect to an individual, work
 14 of a substantially equal or higher skill level than the individual's
 15 past adversely affected employment (as defined for purposes of
 16 the Trade Act of 1974), and wages for such work at not less than
 17 eighty percent (80%) of the individual's average weekly wage as
 18 determined for the purposes of the Trade Act of 1974.

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

21 (A) the prior employment was outside the individual's labor
 22 market;

23 (B) the individual left to accept previously secured full-time
 24 work with an employer in the individual's labor market; and

25 (C) the individual actually became employed with the
 26 employer in the individual's labor market.

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

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

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

41 (1) separation initiated by an employer for falsification of an
 42 employment application to obtain employment through

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

18 SECTION 10. IC 22-4-15-2 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) With respect to
 20 benefit periods established on and after July 3, 1977, an individual is
 21 ineligible for ~~waiting period~~ or benefit rights, or extended benefit
 22 rights, if the department finds that, being totally, partially, or
 23 part-totally unemployed at the time when the work offer is effective or
 24 when the individual is directed to apply for work, the individual fails
 25 without good cause:

- 26 (1) to apply for available, suitable work when directed by the
- 27 commissioner, the deputy, or an authorized representative of the
- 28 department of workforce development or the United States
- 29 training and employment service;
- 30 (2) to accept, at any time after the individual is notified of a
- 31 separation, suitable work when found for and offered to the
- 32 individual by the commissioner, the deputy, or an authorized
- 33 representative of the department of workforce development or the
- 34 United States training and employment service, or an employment
- 35 unit; or
- 36 (3) to return to the individual's customary self-employment when
- 37 directed by the commissioner or the deputy.

38 (b) With respect to benefit periods established on and after July 6,
 39 1980, the ineligibility shall continue for the week in which the failure
 40 occurs and until the individual earns remuneration in employment
 41 equal to or exceeding the weekly benefit amount of the individual's
 42 claim in each of eight (8) weeks. If the qualification amount has not

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1 been earned at the expiration of an individual's benefit period, the
 2 unearned amount shall be carried forward to an extended benefit period
 3 or to the benefit period of a subsequent claim.

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

9 ~~(d) If an individual failed to apply for or accept suitable work as~~
 10 ~~outlined in this section, the maximum benefit amount of the~~
 11 ~~individual's current claim, as initially determined, shall be reduced by~~
 12 ~~twenty-five percent (25%). If twenty-five percent (25%) of the~~
 13 ~~maximum benefit amount is not an even dollar amount, the amount of~~
 14 ~~such reduction shall be raised to the next higher even dollar amount.~~
 15 ~~When twenty-five percent (25%) of the maximum benefit amount, as~~
 16 ~~initially determined, exceeds the unpaid balance remaining in the~~
 17 ~~claim, such reduction shall be limited to the unpaid balance.~~

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

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

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

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

- 39 (1) If the position offered is vacant due directly to a strike,
 40 lockout, or other labor dispute.
- 41 (2) If the remuneration, hours, or other conditions of the work
 42 offered are substantially less favorable to the individual than



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1 those prevailing for similar work in the locality.

2 (3) If as a condition of being employed the individual would be
3 required to join a company union or to resign from or refrain from
4 joining a bona fide labor organization.

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

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

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

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

23 (A) the individual's average weekly benefit amount for the
24 individual's benefit year; plus

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

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

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

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

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

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

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



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1 SECTION 11. IC 22-4-15-3 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) An individual
 3 shall be ineligible for ~~waiting period~~ or benefit rights for any week with
 4 respect to which his total or partial or part-total unemployment is due
 5 to a labor dispute at the factory, establishment, or other premises at
 6 which he was last employed.

7 (b) This section shall not apply to an individual if he has terminated
 8 his employment, or his employment has been terminated, with the
 9 employer involved in the labor dispute; or if the labor dispute which
 10 caused his unemployment has terminated and any period necessary to
 11 resume normal activities at his place of employment has elapsed; or if
 12 all of the following conditions exist: He is not participating in or
 13 financing or directly interested in the labor dispute which caused his
 14 unemployment: and he does not belong to a grade or class of workers
 15 of which, immediately before the commencement of his
 16 unemployment, there were members employed at the same premises as
 17 he, any of whom are participating in or financing or directly interested
 18 in the dispute; and he has not voluntarily stopped working, other than
 19 at the direction of his employer, in sympathy with employees in some
 20 other establishment or factory in which a labor dispute is in progress.

21 (c) If in any case separate branches of work which are commonly
 22 conducted as separate businesses in separate premises are conducted
 23 in separate departments of the same premises, each such department
 24 shall, for the purpose of this section, be deemed to be a separate
 25 factory, establishment, or other premises.

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

32 (e) Notwithstanding any other provisions of this article, an
 33 individual shall not be ineligible for ~~waiting period~~ or benefit rights
 34 under this section solely by reason of his failure or refusal to apply for
 35 or to accept recall to work or reemployment with an employer during
 36 the continuance of a labor dispute at the factory, establishment, or other
 37 premises of the employer, if the individual's last separation from the
 38 employer occurred prior to the start of the labor dispute and was
 39 permanent or for an indefinite period.

40 SECTION 12. IC 22-4-15-4 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) An individual
 42 shall be ineligible for ~~waiting period~~ or benefit rights: For any week

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1 with respect to which the individual receives, is receiving, or has
 2 received payments equal to or exceeding his weekly benefit amount in
 3 the form of:

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

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

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

21 SECTION 13. IC 22-4-15-5 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. Except as provided
 23 in ~~IC 1971~~, 22-4-22, an individual shall be ineligible for ~~waiting period~~
 24 ~~or~~ benefit rights: For any week with respect to which or a part of which
 25 he receives, is receiving, has received or is seeking unemployment
 26 benefits under an unemployment compensation law of another state or
 27 of the United States: Provided, That this disqualification shall not apply
 28 if the appropriate agency of such other state or of the United States
 29 finally determines that he is not entitled to such employment benefits,
 30 including benefits to federal civilian employees and ex-servicemen
 31 pursuant to 5 U.S.C. Chapter 85.

32 SECTION 14. IC 22-4-16-1 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. Notwithstanding any
 34 other provisions of this article, if an individual knowingly fails to
 35 disclose amounts earned during any week in his ~~waiting period~~, benefit
 36 period or extended benefit period with respect to which benefit rights
 37 or extended benefit rights are claimed, or knowingly fails to disclose or
 38 has falsified as to any fact which would have disqualified him or
 39 rendered him ineligible for benefits or extended benefits or would have
 40 reduced his benefit rights or extended benefit rights during such a
 41 week, all of his wage credits established prior to the week of the
 42 falsification or failure to disclose shall be cancelled, and any benefits



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1 or extended benefits which might otherwise have become payable to
 2 him and any benefit rights or extended benefit rights based upon those
 3 wage credits shall be forfeited.

4 SECTION 15. IC 22-4-17-2 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) When an
 6 individual files an initial claim, the division shall promptly make a
 7 determination of his status as an insured worker in a form prescribed
 8 by the board. A written notice of the determination of insured status
 9 shall be furnished him promptly. Each such determination shall be
 10 based on and include a written statement showing the amount of wages
 11 paid to the individual for insured work by each employer during the
 12 individual's base period and shall include a finding as to whether such
 13 wages meet the requirements for the individual to be an insured
 14 worker, and, if so, the week ending date of the first week of the
 15 individual's benefit period, the individual's weekly benefit amount, and
 16 the maximum amount of benefits that may be paid to the individual for
 17 weeks of unemployment in the individual's benefit period. For the
 18 individual who is not insured, the notice shall include the reason for the
 19 determination. Unless the individual, within twenty (20) days after such
 20 determination was mailed to the individual's last known address, or
 21 otherwise delivered to the individual, asks a hearing thereon before an
 22 administrative law judge, such determination shall be final and benefits
 23 shall be paid or denied in accordance therewith.

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

39 (c) An employing unit, including an employer, having knowledge
 40 of any facts which may affect an individual's eligibility or right to
 41 ~~waiting period credits~~ or benefits, shall notify the division of such facts
 42 promptly in accordance with regulations prescribed by the board.



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

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

41 (f) No person may participate on behalf of the department in any
 42 case in which the person is an interested party.

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

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

16 SECTION 16. IC 22-4-14-4 IS REPEALED [EFFECTIVE JULY 1,
17 2000].

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1043, 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 2, line 16, reset in roman "first four (4) of the".

Page 2, line 16, reset in roman "five (5)".

Page 2, line 16, delete "four (4)".

and when so amended that said bill do pass.

(Reference is to HB 1043 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 8, nays 6.

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