

Adopted Rejected

# COMMITTEE REPORT

YES: 8  
NO: 0

**MR. SPEAKER:**

*Your Committee on Employment, Labor and Pensions, to which was referred Senate Bill 86, 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 22-4-2-34, AS AMENDED BY P.L.175-2009,
- 4 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 UPON PASSAGE]: Sec. 34. (a) With respect to benefits for weeks of
- 6 unemployment beginning after August 13, 1981, "extended benefit
- 7 period" means a period which begins with the third week after a week
- 8 for which there is a state "on" indicator and ends with the later of the
- 9 following:
- 10 (1) The third week after the first week for which there is a state
- 11 "off" indicator.
- 12 (2) The thirteenth consecutive week of such period.
- 13 (b) However, no extended benefit period may begin by reason of a

1 state "on" indicator before the fourteenth week following the end of a  
 2 prior extended benefit period which was in effect with respect to this  
 3 state.

4 (c) There is a state "on" indicator for this state for a week if the  
 5 commissioner determines, in accordance with the regulations of the  
 6 United States Secretary of Labor, that for the period consisting of such  
 7 week and the immediately preceding twelve (12) weeks, the rate of  
 8 insured unemployment (not seasonally adjusted) under this article:

9 (1) equaled or exceeded one hundred twenty percent (120%) of  
 10 the average of such rates for the corresponding 13-week period  
 11 ending in each of the preceding two (2) calendar years; and

12 (2) equaled or exceeded five percent (5%).

13 However, the determination of whether there has been a state "on" or  
 14 "off" indicator beginning or ending any extended benefit period shall  
 15 be made under this subsection as if it did not contain subdivision (1) if  
 16 the insured unemployment rate is at least six percent (6%). Any week  
 17 for which there would otherwise be a state "on" indicator shall continue  
 18 to be such a week and may not be determined to be a week for which  
 19 there is a state "off" indicator.

20 (d) In addition to the test for a state "on" indicator under subsection  
 21 (c), there is a state "on" indicator for this state for a week if:

22 (1) the average rate of total unemployment in Indiana, seasonally  
 23 adjusted, as determined by the United States Secretary of Labor,  
 24 for the period consisting of the most recent three (3) months for  
 25 which data for all states are published before the close of the  
 26 week, equals or exceeds six and five-tenths percent (6.5%); and

27 (2) the average rate of total unemployment in Indiana, seasonally  
 28 adjusted, as determined by the United States Secretary of Labor,  
 29 for the three (3) month period referred to in subdivision (1) equals  
 30 or exceeds one hundred ten percent (110%) of the average for  
 31 either or both of the corresponding three (3) month periods ending  
 32 in the two (2) preceding calendar years.

33 There is a state "off" indicator for a week if either of the requirements  
 34 in subdivisions (1) and (2) are not satisfied. However, any week for  
 35 which there would otherwise be a state "on" indicator under this section  
 36 continues to be subject to the "on" indicator and shall not be considered  
 37 a week for which there is a state "off" indicator. This subsection expires  
 38 on the later of December 5, 2009, or the week ending four (4) weeks

1 before the last week for which federal sharing is authorized by Section  
2 2005(a) of Division B, Title II (the federal Assistance to Unemployed  
3 Workers and Struggling Families Act) of the federal American  
4 Recovery and Reinvestment Act of 2009 (P.L. 111-5).

5 (e) There is a state "off" indicator for this state for a week if the  
6 commissioner determines, in accordance with the regulations of the  
7 United States Secretary of Labor, that for the period consisting of such  
8 week and the immediately preceding twelve (12) weeks, the  
9 requirements of subsection (c) have not been met.

10 (f) With respect to benefits for weeks of unemployment beginning  
11 after August 13, 1981, "rate of insured unemployment," for purposes  
12 of subsection (c), means the percentage derived by dividing:

13 (1) the average weekly number of individuals filing claims for  
14 regular compensation in this state for weeks of unemployment  
15 with respect to the most recent 13 consecutive week period (as  
16 determined by the board on the basis of this state's reports to the  
17 United States Secretary of Labor); by

18 (2) the average monthly employment covered under this article  
19 for the first four (4) of the most recent six (6) completed calendar  
20 quarters ending before the end of such 13-week period.

21 (g) "Regular benefits" means benefits payable to an individual under  
22 this article or under the law of any other state (including benefits  
23 payable to federal civilian employees and to ex-servicemen pursuant to  
24 5 U.S.C. 8501 through 8525) other than extended benefits. "Additional  
25 benefits" means benefits other than extended benefits and which are  
26 totally financed by a state payable to exhaustees by reason of  
27 conditions of high unemployment or by reason of other special factors  
28 under the provisions of any state law. If extended compensation is  
29 payable to an individual by this state and additional compensation is  
30 payable to the individual for the same week by any state, the individual  
31 may elect which of the two (2) types of compensation to claim.

32 (h) "Extended benefits" means benefits (including benefits payable  
33 to federal civilian employees and to ex-servicemen pursuant to 5  
34 U.S.C. 8501 through 8525) payable to an individual under the  
35 provisions of this article for weeks of unemployment in the individual's  
36 "eligibility period". Pursuant to Section 3304 of the Internal Revenue  
37 Code extended benefits are not payable to interstate claimants filing  
38 claims in an agent state which is not in an extended benefit period,

1 against the liable state of Indiana when the state of Indiana is in an  
 2 extended benefit period. This prohibition does not apply to the first two  
 3 (2) weeks claimed that would, but for this prohibition, otherwise be  
 4 payable. However, only one (1) such two (2) week period will be  
 5 granted on an extended claim. Notwithstanding any other provisions of  
 6 this chapter, with respect to benefits for weeks of unemployment  
 7 beginning after October 31, 1981, if the benefit year of any individual  
 8 ends within an extended benefit period, the remaining balance of  
 9 extended benefits that the individual would, but for this clause, be  
 10 entitled to receive in that extended benefit period, with respect to  
 11 weeks of unemployment beginning after the end of the benefit year,  
 12 shall be reduced (but not below zero (0)) by the product of the number  
 13 of weeks for which the individual received any amounts as trade  
 14 readjustment allowances within that benefit year, multiplied by the  
 15 individual's weekly benefit amount for extended benefits.

16 (i) "Eligibility period" of an individual means the period consisting  
 17 of the weeks in the individual's benefit period which begin in an  
 18 extended benefit period and, if the individual's benefit period ends  
 19 within such extended benefit period, any weeks thereafter which begin  
 20 in such extended benefit period. For any weeks of unemployment  
 21 beginning after February 17, 2009, and before January 1, ~~2010~~, **2012**,  
 22 an individual's eligibility period (as described in Section 203(c) of the  
 23 Federal-State Unemployment Compensation Act of 1970) is, for  
 24 purposes of any determination of eligibility for extended compensation  
 25 under state law, considered to include any week that begins:

- 26 (1) after the date as of which the individual exhausts all rights to  
 27 emergency unemployment compensation; and  
 28 (2) during an extended benefit period that began on or before the  
 29 date described in subdivision (1).

30 (j) "Exhaustee" means an individual who, with respect to any week  
 31 of unemployment in the individual's eligibility period:

- 32 (1) has received, prior to such week, all of the regular benefits  
 33 including dependent's allowances that were available to the  
 34 individual under this article or under the law of any other state  
 35 (including benefits payable to federal civilian employees and  
 36 ex-servicemen under 5 U.S.C. 8501 through 8525) in the  
 37 individual's current benefit period that includes such week.  
 38 However, for the purposes of this subsection, an individual shall

1 be deemed to have received all of the regular benefits that were  
 2 available to the individual although as a result of a pending appeal  
 3 with respect to wages that were not considered in the original  
 4 monetary determination in the individual's benefit period or  
 5 although a nonmonetary decision denying benefits is pending, the  
 6 individual may subsequently be determined to be entitled to  
 7 added regular benefits;

8 (2) may be entitled to regular benefits with respect to future  
 9 weeks of unemployment but such benefits are not payable with  
 10 respect to such week of unemployment by reason of seasonal  
 11 limitations in any state unemployment insurance law; or

12 (3) having had the individual's benefit period expire prior to such  
 13 week, has no, or insufficient, wages on the basis of which the  
 14 individual could establish a new benefit period that would include  
 15 such week;

16 and has no right to unemployment benefits or allowances, as the case  
 17 may be, under the Railroad Unemployment Insurance Act, the Trade  
 18 Act of 1974, the Automotive Products Trade Act of 1965 and such  
 19 other federal laws as are specified in regulations issued by the United  
 20 States Secretary of Labor, and has not received and is not seeking  
 21 unemployment benefits under the unemployment compensation law of  
 22 Canada; but if the individual is seeking such benefits and the  
 23 appropriate agency finally determines that the individual is not entitled  
 24 to benefits under such law, the individual is considered an exhaustee.

25 (k) "State law" means the unemployment insurance law of any state,  
 26 approved by the United States Secretary of Labor under Section 3304  
 27 of the Internal Revenue Code.

28 **(l) With respect to compensation for weeks of unemployment**  
 29 **beginning after April 15, 2011, and ending on the later of**  
 30 **December 31, 2011, or the last week authorized under federal law,**  
 31 **in addition to the tests for a state "on" indicator under subsections**  
 32 **(c) and (d), there is a state "on" indicator for a week if:**

33 **(1) the average rate of insured unemployment for the period**  
 34 **consisting of the week and the immediately preceding twelve**

35 **(12) weeks equals or exceeds five percent (5%); and**

36 **(2) the average rate of insured unemployment for the period**  
 37 **consisting of the week and the immediately preceding twelve**

38 **(12) weeks equals or exceeds one hundred twenty percent**

1           (120%) of the average rates of insured unemployment for the  
2           corresponding thirteen (13) week period ending in each of the  
3           preceding three (3) calendar years.

4           (m) There is a state "off" indicator for a week based on the rate  
5           of insured unemployment only if the rate of insured unemployment  
6           for the period consisting of the week and the immediately  
7           preceding twelve (12) weeks does not result in an "on" indicator  
8           under subsection (c)(1).

9           (n) With respect to compensation for weeks of unemployment  
10          beginning after April 15, 2011, and ending on the later of  
11          December 31, 2011, or the last week authorized under federal law,  
12          in addition to the tests for a state "on" indicator under subsections  
13          (c), (d), and (l) there is a state "on" indicator for a week if:

14          (1) the average rate of total unemployment (seasonally  
15          adjusted), as determined by the United States Secretary of  
16          Labor, for the period consisting of the most recent three (3)  
17          months for which data for all states are published before the  
18          close of the week equals or exceeds six and one-half percent  
19          (6.5%); and

20          (2) the average rate of total unemployment in Indiana  
21          (seasonally adjusted), as determined by the United States  
22          Secretary of Labor, for the three (3) month period referred to  
23          in subdivision (1) equals or exceeds one hundred ten percent  
24          (110%) of the average for any or all of the corresponding  
25          three (3) month periods ending in the three (3) preceding  
26          calendar years.

27          (o) There is a state "off" indicator for a week based on the rate  
28          of total unemployment only if the rate of total unemployment for  
29          the period consisting of the most recent three (3) months for which  
30          data for all states are published before the close of the week does  
31          not result in an "on" indicator under subsection (d)(1)."

32          Page 1, between lines 10 and 11, begin a new line blocked left and  
33          insert:

34          **"A drug test described in this section must be performed at a**  
35          **United States Department of Health and Human Services certified**  
36          **laboratory, with specimen collection performed by a collector**  
37          **certified by the United States Department of Transportation and**  
38          **the cost of the drug test paid by the employer.**

1 SECTION 3. IC 22-4-12-4, AS AMENDED BY P.L.175-2009,  
2 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 4. (a) Benefits shall be computed upon the  
4 basis of wage credits of an individual in the individual's base period.  
5 Wage credits shall be reported by the employer and credited to the  
6 individual in the manner prescribed by the board. With respect to initial  
7 claims filed for any week beginning on and after July 7, 1991, the  
8 maximum total amount of benefits payable to any eligible individual  
9 during any benefit period shall not exceed twenty-six (26) times the  
10 individual's weekly benefit, or twenty-eight percent (28%) of the  
11 individual's wage credits with respect to the individual's base period,  
12 whichever is less. If such maximum total amount of benefits is not a  
13 multiple of one dollar (\$1), it shall be computed to the next lower  
14 multiple of one dollar (\$1).

15 (b) Except as provided in subsection (d), the total extended benefit  
16 amount payable to any eligible individual with respect to the  
17 individual's applicable benefit period shall be fifty percent (50%) of the  
18 total amount of regular benefits (including dependents' allowances)  
19 which were payable to the individual under this article in the applicable  
20 benefit year, or thirteen (13) times the weekly benefit amount  
21 (including dependents' allowances) which was payable to the individual  
22 under this article for a week of total unemployment in the applicable  
23 benefit year, whichever is the lesser amount.

24 (c) This subsection applies to individuals who file a disaster  
25 unemployment claim or a state unemployment insurance claim after  
26 June 1, 1990, and before June 2, 1991, or during another time specified  
27 in another state statute. An individual is entitled to thirteen (13) weeks  
28 of additional benefits, as originally determined, if:

29 (1) the individual has established:

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

32 (B) a state unemployment insurance claim as a direct result of  
33 a major disaster;

34 (2) all regular benefits and all disaster unemployment assistance  
35 benefits:

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

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

1 (3) the individual remains unemployed as a direct result of the  
2 disaster.

3 (d) For purposes of this subsection, "high unemployment period"  
4 means a period during which an extended benefit period would be in  
5 effect if IC 22-4-2-34(d)(1) were applied by substituting "eight percent  
6 (8%)" for "six and five-tenths percent (6.5%)". Effective with respect  
7 to weeks beginning in a high unemployment period, the total extended  
8 benefit amount payable to an eligible individual with respect to the  
9 applicable benefit year is equal to the least of the following amounts:

10 (1) Eighty percent (80%) of the total amount of regular benefits  
11 that were payable to the eligible individual under this article in  
12 the applicable benefit year.

13 (2) Twenty (20) times the weekly benefit amount that was payable  
14 to the eligible individual under this article for a week of total  
15 unemployment in the applicable benefit year.

16 (3) Forty-six (46) times the weekly benefit amount that was  
17 payable to the eligible individual under this article for a week of  
18 total unemployment in the applicable benefit year, reduced by the  
19 regular unemployment compensation benefits paid (or deemed  
20 paid) during the benefit year.

21 This subsection expires on the later of December 5, 2009, or the week  
22 ending four (4) weeks before the last week for which federal sharing is  
23 authorized by Section 2005(a) of Division B, Title II (the federal  
24 Assistance to Unemployed Workers and Struggling Families Act) of  
25 the federal American Recovery and Reinvestment Act of 2009 (P.L.  
26 111-5).

27 **(e) For purposes of this subsection, "high unemployment**  
28 **period" means a period during which an extended benefit period**  
29 **would be in effect if IC 22-4-2-34(n)(1) were applied by substituting**  
30 **"eight percent (8%)" for "six and one-half percent (6.5%)".**  
31 **Effective with respect to weeks of unemployment beginning after**  
32 **April 15, 2011, and ending on the later of December 31, 2011, or**  
33 **the last week authorized under federal law, in a high**  
34 **unemployment period, the total extended benefit amount payable**  
35 **to an eligible individual with respect to the applicable benefit year**  
36 **is equal to the lesser of the following amounts:**

37 (1) Eighty percent (80%) of the total amount of regular  
38 benefits that were payable to the eligible individual under this

1           **article in the applicable benefit year.**  
 2           **(2) Twenty (20) times the weekly benefit amount that was**  
 3           **payable to the eligible individual under this article for a week**  
 4           **of total unemployment in the applicable benefit year."**

5           Page 5, delete lines 6 through 42, begin a new paragraph and insert:

6           **"(j) An individual is considered to have refused an offer of**  
 7           **suitable work under subsection (a) if an offer of work is withdrawn**  
 8           **by an employer after an individual:**

9                 **(1) tests positive for drugs after a drug test given on behalf of**  
 10                 **the prospective employer as a condition of an offer of**  
 11                 **employment; or**

12                 **(2) refuses, without good cause, to submit to a drug test**  
 13                 **required by the prospective employer as a condition of an**  
 14                 **offer of employment.**

15           **(k) The department's records concerning the results of a drug**  
 16           **test described in subsection (j) may not be admitted against a**  
 17           **defendant in a criminal proceeding."**

18           Delete pages 6 through 7.

19           Page 8, delete lines 1 through 13, begin a new paragraph and insert:

20           **"SECTION 5. An emergency is declared for this act."**

21           Renumber all SECTIONS consecutively.

(Reference is to SB 86 as reprinted January 25, 2011.)

**and when so amended that said bill do pass.**

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Representative Gutwein