

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1544**  
**95TH GENERAL ASSEMBLY**

4246S.04T

2010

---

**AN ACT**

To repeal sections 288.062 and 288.500, RSMo, and to enact in lieu thereof two new sections relating to unemployment compensation, with an emergency clause.

---

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 288.062 and 288.500, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 288.062 and 288.500, to read as follows:

288.062. 1. As used in this section, unless the context clearly requires otherwise:

2 (1) "Extended benefit period" means a period which begins with the third week after a  
3 week for which there is a state "on" indicator, and ends with either of the following weeks,  
4 whichever occurs later:

5 (a) The third week after the first week for which there is a state "off" indicator; or

6 (b) The thirteenth consecutive week of such period; provided, that no extended benefit  
7 period may begin by reason of a state "on" indicator before the fourteenth week following the  
8 end of a prior extended benefit period which was in effect with respect to this state;

9 (2) There is a "state 'on' indicator" for this state for a week if the director determines, in  
10 accordance with the regulations of the United States Secretary of Labor, that for the period  
11 consisting of such week and the immediately preceding twelve weeks, the rate of insured  
12 unemployment (not seasonally adjusted) under this law:

13 (a) Equaled or exceeded one hundred twenty percent of the average of such rates for the  
14 corresponding thirteen-week period ending in each of the preceding two calendar years; **and**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (b) Equaled or exceeded four percent for weeks beginning prior to or on September 25,  
16 1982, or five percent for weeks beginning after September 25, 1982; except that, if the rate of  
17 insured unemployment as contemplated in this subdivision equals or exceeds five percent for  
18 weeks beginning prior to or on September 25, 1982, or six percent for weeks beginning after  
19 September 25, 1982, the determination of an "on" indicator shall be made under this subdivision  
20 as if this subdivision did not contain the provisions of paragraph (a) of this subdivision; [and]  
21 **or**

22 (c) With respect to weeks of unemployment beginning on or after February 1, 2009, and  
23 ending on or before [December 5, 2009] **the week ending four weeks prior to the last week**  
24 **of unemployment for which one hundred percent federal sharing is available under the**  
25 **provisions of Public Law 111-5, Section 2005(a) or March 3, 2011, whichever should occur**  
26 **first:**

27 a. The average rate of total unemployment in the state (seasonally adjusted), as  
28 determined by the United States Secretary of Labor, for the period consisting of the most recent  
29 three months for which data for all states are published before the close of such week equals or  
30 exceeds six and one-half percent; and

31 b. The average rate of total unemployment in the state (seasonally adjusted), as  
32 determined by the United States Secretary of Labor, for the three-month period referred to in  
33 subparagraph a. of this paragraph, equals or exceeds one hundred and ten percent of such average  
34 for either or both of the corresponding three-month periods ending in the two preceding calendar  
35 years;

36 (3) There is a "state 'off' indicator" for this state for a week if the director determines, in  
37 accordance with the regulations of the United States Secretary of Labor, that for the period  
38 consisting of such week and the immediately preceding twelve weeks, the rate of insured  
39 unemployment (not seasonally adjusted) under this law:

40 (a) Was less than one hundred twenty percent of the average of such rates for the  
41 corresponding thirteen-week period ending in each of the preceding two calendar years; or

42 (b) Was less than four percent (five percent for weeks beginning after September 25,  
43 1982); except, there shall not be an "off" indicator for any week in which an "on" indicator as  
44 contemplated in paragraph (b) of subdivision (2) of this subsection exists;

45 (4) "Rate of insured unemployment", for the purposes of subdivisions (2) and (3) of this  
46 subsection, means the percentage derived by dividing:

47 (a) The average weekly number of individuals filing claims for regular compensation in  
48 this state for weeks of unemployment with respect to the most recent thirteen-consecutive-week  
49 period, as determined by the director on the basis of his or her reports to the United States  
50 Secretary of Labor, by

51 (b) The average monthly employment covered under this law for the first four of the  
52 most recent six completed calendar quarters ending before the end of such thirteen-week period;

53 (5) "Regular benefits" means benefits payable to an individual under this law or under  
54 any other state law (including benefits payable to federal civilian employees and ex-servicemen  
55 pursuant to 5 U.S.C. Chapter 85) other than extended benefits;

56 (6) "Extended benefits" means benefits (including benefits payable to federal civilian  
57 employees and to ex-servicemen pursuant to 5 U.S.C. Chapter 85) payable to an individual under  
58 the provisions of this section for weeks of unemployment in his or her eligibility period;

59 (7) "Eligibility period" of an individual means the period consisting of the weeks in his  
60 or her benefit year which begin in an extended benefit period and, if his or her benefit year ends  
61 within such extended benefit period, any weeks thereafter which begin in such period;

62 (8) "Exhaustee" means an individual who, with respect to any week of unemployment  
63 in his or her eligibility period:

64 (a) Has received, prior to such week, all of the regular benefits that were available to him  
65 or her under this law or any other state law (including dependents' allowances and benefits  
66 payable to federal civilian employees and ex-servicemen under 5 U.S.C. Chapter 85) in his or  
67 her current benefit year that includes such week; provided, that, for the purposes of this  
68 paragraph, an individual shall be deemed to have received all of the regular benefits that were  
69 available to him or her although as a result of a pending appeal with respect to wages or  
70 employment, or both, that were not considered in the original monetary determination in his or  
71 her benefit year, he may subsequently be determined to be entitled to added regular benefits; or

72 (b) Has received, prior to such week, all the regular compensation available to him or  
73 her in his or her current benefit year that includes such week under the unemployment  
74 compensation law of the state in which he or she files a claim for extended compensation or the  
75 unemployment compensation law of any other state after a cancellation of some or all of his or  
76 her wage credits or the partial or total reduction of his or her right to regular compensation; or

77 (c) His or her benefit year having expired prior to such week, he or she has insufficient  
78 wages or employment, or both, on the basis of which he or she could establish in any state a new  
79 benefit year that would include such week, or having established a new benefit year that includes  
80 such week, he or she is precluded from receiving regular compensation by reason of a state law  
81 provision which meets the requirement of section 3304(a)(7) of the Internal Revenue Code of  
82 1954; and

83 (d) a. Has no right to unemployment benefits or allowances, as the case may be, under  
84 the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive  
85 Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by  
86 the United States Secretary of Labor; and

87           b. Has not received and is not seeking unemployment benefits under the unemployment  
88 compensation law of Canada; but if he or she is seeking such benefits and the appropriate agency  
89 finally determines that he or she is not entitled to benefits under such law he or she is considered  
90 an exhaustee;

91           (9) "State law" means the unemployment insurance law of any state, approved by the  
92 United States Secretary of Labor under Section 3304 of the Internal Revenue Code of 1954.

93           2. Except when the result would be inconsistent with the other provisions of this section,  
94 as provided in the regulations of the director, the provisions of this law which apply to claims  
95 for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended  
96 benefits.

97           3. An individual shall be eligible to receive extended benefits with respect to any week  
98 of unemployment in his or her eligibility period only if the deputy finds that with respect to such  
99 week:

100           (1) He or she is an exhaustee as defined in subdivision (8) of subsection 1 of this section;

101           (2) He or she has satisfied the requirements of this law for the receipt of regular benefits  
102 that are applicable to individuals claiming extended benefits, including not being subject to a  
103 disqualification for the receipt of benefits; except that, in the case of a claim for benefits filed  
104 in another state, which is acting as an agent state under the Interstate Benefits Payment Plan as  
105 provided by regulation, which claim is based on benefit credits accumulated in this state,  
106 eligibility for extended benefits shall be limited to the first two compensable weeks unless there  
107 is an extended benefit period in effect in both this state and the agent state in which the claim  
108 was filed;

109           (3) The other provisions of this law notwithstanding, as to new extended benefit claims  
110 filed after September 25, 1982, an individual shall be eligible to receive extended benefits with  
111 respect to any week of unemployment in his or her eligibility period only if the deputy finds that  
112 the total wages in the base period of his or her benefit year equal at least one and one-half times  
113 the wages paid during that quarter of his or her base period in which his or her wages were  
114 highest.

115           4. A claimant shall not be eligible for extended benefits following any disqualification  
116 imposed under subsection 1 or 2 of section 288.050, unless subsequent to the effective date of  
117 the disqualification, the claimant has been employed during at least four weeks and has earned  
118 wages equal to at least four times his or her weekly benefit amount.

119           5. For the purposes of determining eligibility for extended benefits, the term "suitable  
120 work" means any work which is within such individual's capabilities except that, if the individual  
121 furnishes satisfactory evidence that the prospects for obtaining work in his or her customary  
122 occupation within a reasonably short period are good, the determination of what constitutes

123 suitable work shall be made in accordance with the provisions of subdivision (3) of subsection  
124 1 of section 288.050. If a deputy finds that a person who is claiming extended benefits has  
125 refused to accept or to apply for suitable work, as defined in this subsection, or has failed to  
126 actively engage in seeking work subsequent to the effective date of his or her claim for extended  
127 benefits, that person shall be ineligible for extended benefits for the period beginning with the  
128 first day of the week in which such refusal or failure occurred. That ineligibility shall remain in  
129 effect until the person has been employed for at least four weeks after the week in which the  
130 refusal or failure occurred and has earned wages equal to at least four times his or her weekly  
131 benefit amount.

132 6. Extended benefits shall not be denied under subsection 5 of this section to any  
133 individual for any week by reason of a failure to accept an offer of or apply for suitable work if:

134 (1) The gross average weekly remuneration for such work does not exceed the  
135 individual's weekly benefit amount plus the amount of any supplemental unemployment benefits,  
136 as defined in section 501(c)(17)(d) of the Internal Revenue Code, payable to such individual for  
137 such week; or

138 (2) The position was not offered to such individual in writing or was not listed with the  
139 state employment service; or

140 (3) If the remuneration for the work offered is less than the minimum wage provided by  
141 Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, without regard to any  
142 exemption or any applicable state or local minimum wage, whichever is the greater.

143 7. For the purposes of this section, an individual shall be considered as actively engaged  
144 in seeking work during any week with respect to which the individual has engaged in a  
145 systematic and sustained effort to obtain work as indicated by tangible evidence which the  
146 individual provides to the division.

147 8. Extended benefits shall not be denied for failure to apply for or to accept suitable work  
148 if such failure would not result in a denial of benefits under subdivision (3) of subsection 1 of  
149 section 288.050 to the extent that the provisions of subdivision (3) of subsection 1 of section  
150 288.050 are not inconsistent with the provisions of subsections 5 and 6 of this section.

151 9. The division shall refer any claimant entitled to extended benefits under this law to  
152 any suitable work which meets the criteria established in subsections 5 and 6 of this section.

153 10. Notwithstanding other provisions of this chapter to the contrary, as to claims of  
154 extended benefits, subsections 4 to 9 of this section shall not apply to weeks of unemployment  
155 beginning after March 6, 1993, and before January 1, 1995. Entitlement to extended benefits for  
156 weeks beginning after March 6, 1993, and before January 1, 1995, shall be determined in  
157 accordance with provisions of this chapter not excluded by this subsection.

158           11. "Weekly extended benefit amount." The weekly extended benefit amount payable  
159 to an individual for a week of total unemployment in his or her eligibility period shall be an  
160 amount equal to the weekly benefit amount payable to him or her during his or her applicable  
161 benefit year, reduced by a percentage equal to the percentage of the reduction in federal payments  
162 to states under Section 204 of the Federal State Extended Unemployment Compensation Act of  
163 1970, in accord with any order issued under any law of the United States. Such weekly benefit  
164 amount, if not a multiple of one dollar, shall be reduced to the nearest lower full dollar amount.

165           12. (1) "Total extended benefit amount." The total extended benefit amount payable to  
166 any eligible individual with respect to his or her applicable benefit year shall be the lesser of the  
167 following amounts:

168           (a) Fifty percent of the total amount of regular benefits which were payable to him or her  
169 under this law in his or her applicable benefit year;

170           (b) Thirteen times his or her weekly benefit amount which was payable to him or her  
171 under this law for a week of total unemployment in the applicable benefit year.

172           (2) Notwithstanding subdivision (1) of this subsection, during any fiscal year in which  
173 federal payments to states under Section 204 of the Federal State Extended Unemployment  
174 Compensation Act of 1970 are reduced under any order issued under any law of the United  
175 States, the total extended benefit amount payable to an individual with respect to his or her  
176 applicable benefit year shall be reduced by an amount equal to the aggregate of the reductions  
177 under subsection 11 of this section in the weekly amounts paid to the individual.

178           (3) Notwithstanding the other provisions of this subsection, if the benefit year of any  
179 individual ends within an extended benefit period, the remaining balance of extended benefits  
180 that such individual would, but for this subdivision, be entitled to receive in that extended benefit  
181 period, with respect to weeks of unemployment beginning after the end of the benefit year, shall  
182 be reduced, but not below zero, by the product of the number of weeks for which the individual  
183 received trade readjustment allowances under the Trade Act of 1974, as amended, within that  
184 benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

185           (4) (a) Effective with respect to weeks beginning in a high unemployment period,  
186 subdivision (1) of this subsection shall be applied by substituting:

187           a. Eighty percent for fifty percent in paragraph (a) of subdivision (1) of this subsection;  
188 and

189           b. Twenty times for thirteen times in paragraph (b) of subdivision (1) of this subsection.

190           (b) For purposes of paragraph (a) of this subdivision, the term "high unemployment  
191 period" means any period during which an extended benefit period would be in effect if  
192 subparagraph a. of paragraph (c) of subdivision (2) of subsection 1 of this section were applied  
193 by substituting eight percent for six and one-half percent.

194           13. (1) Whenever an extended benefit period is to become effective in this state as a  
195 result of a state "on" indicator, or an extended benefit period is to be terminated in this state as  
196 a result of a state "off" indicator, the director shall make an appropriate public announcement.

197           (2) Computations required by the provisions of subdivision (4) of subsection 1 of this  
198 section, shall be made by the director, in accordance with regulations prescribed by the United  
199 States Secretary of Labor.

          288.500. 1. There is created under this section a voluntary "Shared Work  
2 Unemployment Compensation Program". In connection therewith, the division may adopt rules  
3 and establish procedures, not inconsistent with this section, which are necessary to administer  
4 this program.

5           2. As used in this section, the following terms mean:

6           (1) "Affected unit", a specified department, shift, or other unit of three or more  
7 employees which is designated by an employer to participate in a shared work plan;

8           (2) "Division", the division of employment security;

9           (3) "Fringe benefit", health insurance, a retirement benefit received under a pension plan,  
10 a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit that  
11 is provided by an employer;

12           (4) "Normal weekly hours of work", as to any individual, the lesser of forty hours or the  
13 average obtained by dividing the total number of hours worked per week in the preceding  
14 twelve-week period by the number twelve;

15           (5) "Participating employee", an employee who works a reduced number of hours under  
16 a shared work plan;

17           (6) "Participating employer", an employer who has a shared work plan in effect;

18           (7) "Shared work benefit", an unemployment compensation benefit that is payable to an  
19 individual in an affected unit because the individual works reduced hours under an approved  
20 shared work plan;

21           (8) "Shared work plan", a program for reducing unemployment under which employees  
22 who are members of an affected unit share the work remaining after a reduction in their normal  
23 weekly hours of work;

24           (9) "Shared work unemployment compensation program", a program designed to reduce  
25 unemployment and stabilize the work force by allowing certain employees to collect  
26 unemployment compensation benefits if the employees share the work remaining after a  
27 reduction in the total number of hours of work and a corresponding reduction in wages.

28           3. An employer who wishes to participate in the shared work unemployment  
29 compensation program established under this section shall submit a written shared work plan in  
30 a form acceptable to the division for approval. As a condition for approval by the division, a

31 participating employer shall agree to furnish the division with reports relating to the operation  
32 of the shared work plan as requested by the division. The employer shall monitor and evaluate  
33 the operation of the established shared work plan as requested by the division and shall report  
34 the findings to the division.

35 4. The division may approve a shared work plan if:

36 (1) The employer has filed all reports required to be filed under this chapter for all past  
37 and current periods and has paid all contributions due for all past and current periods;

38 (2) The shared work plan applies to and identifies a specified affected unit;

39 (3) The employees in the affected unit are identified by name and Social Security  
40 number;

41 (4) The shared work plan reduces the normal weekly hours of work for an employee in  
42 the affected unit by not less than twenty percent and not more than forty percent;

43 (5) The shared work plan applies to at least ten percent of the employees in the affected  
44 unit;

45 (6) The shared work plan describes the manner in which the participating employer treats  
46 the fringe benefits of each employee in the affected unit; and

47 (7) The employer certifies that the implementation of a shared work plan and the  
48 resulting reduction in work hours is in lieu of temporary layoffs that would affect at least ten  
49 percent of the employees in the affected unit and that would result in an equivalent reduction in  
50 work hours.

51 5. If any of the employees who participate in a shared work plan under this section are  
52 covered by a collective bargaining agreement, the shared work plan shall be approved in writing  
53 by the collective bargaining agent.

54 6. No shared work plan which will subsidize seasonal employers during the off-season  
55 or subsidize employers, at least fifty percent of the employees of which have normal weekly  
56 hours of work equaling thirty-two hours or less, shall be approved by the division. No shared  
57 work plan benefits will be initiated when the reduced hours coincide with holiday earnings  
58 already committed to be paid by the employer. Shared work plan benefits may not be denied in  
59 any week containing a holiday for which holiday earnings are committed to be paid by the  
60 employer unless the shared work benefits to be paid are for the same hours in the same day as  
61 the holiday earnings.

62 7. The division shall approve or deny a shared work plan not later than the thirtieth day  
63 after the day on which the shared work plan is received by the division. The division shall  
64 approve or deny a plan in writing. If the division denies a plan, the division shall notify the  
65 employer of the reasons for the denial. Approval or denial of a plan by the division shall be final  
66 and such determination shall be subject to review in the manner otherwise provided by law. If



67 approval of a plan is denied by the division, the employer may submit a new plan to the division  
68 for consideration no sooner than forty-five calendar days following the date on which the  
69 division disapproved the employer's previously submitted plan.

70 8. The division may revoke approval of a shared work plan and terminate the plan if it  
71 determines that the shared work plan is not being executed according to the terms and intent of  
72 the shared work unemployment compensation program, or if it is determined by the division that  
73 the approval of the shared work plan was based, in whole or in part, upon information contained  
74 in the plan which was either false or substantially misleading.

75 9. Each shared work plan approved by the division shall become effective on the first  
76 day of the week in which it is approved by the division or on a later date as specified in the  
77 shared work plan. Each shared work plan approved by the division shall expire on the last day  
78 of the twelfth full calendar month after the effective date of such shared work plan.

79 10. An employer may modify a shared work plan created under this section to meet  
80 changed conditions if the modification conforms to the basic provisions of the shared work plan  
81 as originally approved by the division. The employer shall report the changes made to the plan  
82 in writing to the division at least seven days before implementing such changes. The division  
83 shall reevaluate the shared work plan and may approve the modified shared work plan if it meets  
84 the requirements for approval under subsection 4 of this section. The approval of a modified  
85 shared work plan shall not, under any circumstances, affect the expiration date originally set for  
86 the shared work plan. If modifications cause the shared work plan to fail to meet the  
87 requirements for approval, the division shall deny approval of the modifications as provided in  
88 subsection 7 of this section.

89 11. Notwithstanding any other provisions of this chapter, an individual is unemployed  
90 for the purposes of this section in any week in which the individual, as an employee in an  
91 affected unit, works less than his normal weekly hours of work in accordance with an approved  
92 shared work plan in effect for that week.

93 12. An individual who is otherwise entitled to receive regular unemployment insurance  
94 benefits under this chapter shall be eligible to receive shared work benefits with respect to any  
95 week in which the division finds that:

96 (1) The individual is employed as a member of an affected unit subject to a shared work  
97 plan that was approved before the week in question and is in effect for that week;

98 (2) Notwithstanding the provisions of subdivision (2) of subsection 1 of section 288.040,  
99 the individual is able to work, available for work and works all available hours with the  
100 participating employer;

101 (3) The individual's normal weekly hours of work have been reduced by at least twenty  
102 percent but not more than forty percent, with a corresponding reduction in wages; and

103 (4) The individual has served a waiting week as defined in section 288.030.

104 13. A waiting week served under the provisions of subdivision (3) of subsection 1 of  
105 section 288.040 shall serve to meet the requirements of subdivision (4) of subsection 12 of this  
106 section and a waiting week served under the provisions of subdivision (4) of subsection 12 of  
107 this section shall serve to meet the requirements of section 288.040. Notwithstanding any other  
108 provisions of this chapter, an individual who files a new initial claim during the pendency of the  
109 twelve-month period in which a shared work plan is in effect shall serve a waiting week whether  
110 or not the individual has served a waiting week under this subsection.

111 14. The division shall not deny shared work benefits for any week to an otherwise  
112 eligible individual by reason of the application of any provision of this chapter that relates to  
113 availability for work, active search for work, or refusal to apply for or accept work with an  
114 employer other than the participating employer under the plan.

115 15. The division shall pay an individual who is eligible for shared work benefits under  
116 this section a weekly shared work benefit amount equal to the individual's regular weekly benefit  
117 amount for a period of total unemployment less any deductible amounts under this chapter except  
118 wages received from any employer, multiplied by the full percentage of reduction in the  
119 individual's hours as set forth in the employer's shared work plan. If the shared work benefit  
120 amount calculated under this subsection is not a multiple of one dollar, the division shall round  
121 the amount so calculated to the next lowest multiple of one dollar. An individual shall be  
122 ineligible for shared work benefits for any week in which the individual performs paid work for  
123 the participating employer in excess of the reduced hours established under the shared work plan.

124 16. An individual shall not be entitled to receive shared work benefits and regular  
125 unemployment compensation benefits in an aggregate amount which exceeds the maximum total  
126 amount of benefits payable to that individual in a benefit year as provided under section 288.038.  
127 Notwithstanding any other provisions of this chapter, an individual shall not be eligible to  
128 receive shared work benefits for more than [twenty-six] **fifty-two** calendar weeks during the  
129 twelve-month period of the shared work plan. No week shall be counted as a week of  
130 unemployment for the purposes of this subsection unless it occurs within the twelve-month  
131 period of the shared work plan.

132 17. Notwithstanding any other provision of this chapter, all benefits paid under a shared  
133 work plan which are chargeable to the participating employer or any other base period employer  
134 of a participating employee shall be charged to the account of the participating employer under  
135 the plan.

136 18. An individual who has received all of the shared work benefits and regular  
137 unemployment compensation benefits available in a benefit year is an exhaustee under section

138 288.062 and is entitled to receive extended benefits under section 288.062 if the individual is  
139 otherwise eligible under that section.

Section B. Because immediate action is necessary to help Missourians during economic  
2 hardship, section A of this act is deemed necessary for the immediate preservation of the public  
3 health, welfare, peace, and safety, and is hereby declared to be an emergency act within the  
4 meaning of the constitution, and section A of this act shall be in full force and effect upon its  
5 passage and approval.

✓

---

Speaker of the House

---

President Pro Tem of the Senate

---

Governor