

FIRST REGULAR SESSION

# HOUSE BILL NO. 1194

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CHIPMAN.

2328H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 285.055, 288.062, and 290.528, RSMo, and to enact in lieu thereof two new sections relating to the minimum wage, with an emergency clause.

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

Section A. Sections 285.055, 288.062, and 290.528, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 288.062 and 290.528, to read as follows:

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

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

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

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

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

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

b. Equaled or exceeded four percent for weeks beginning prior to or on September 25, 1982, or five percent for weeks beginning after September 25, 1982; except that, if the rate of insured unemployment as contemplated in this subdivision equals or exceeds five percent for

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.

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 subparagraph a. of paragraph (a) of this  
21 subdivision; or

22 (b) With respect to weeks of unemployment beginning on or after February 1, 2009, and  
23 ending on or before the week ending four weeks prior to the last week of unemployment for  
24 which one hundred percent federal sharing is available under the provisions of Public Law 111-5,  
25 Section 2005(a) or August 28, 2013, whichever should occur first:

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

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

35 c. Effective with respect to compensation for weeks of unemployment beginning after  
36 the date of enactment of the Tax Relief, Unemployment Insurance Reauthorization, and Job  
37 Creation Act of 2010, Public Law 111-312, and ending on or before the last day allowable by the  
38 Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the  
39 average rate of total unemployment in the state (seasonally adjusted), as determined by the  
40 United States Secretary of Labor, for the three-month period referred to in subparagraph a. of this  
41 paragraph, equals or exceeds one hundred and ten percent of such average for any or all of the  
42 corresponding three-month periods ending in the three preceding calendar years;

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

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

49 (b) Was less than four percent (five percent for weeks beginning after September 25,  
50 1982); except, there shall not be an "off" indicator for any week in which an "on" indicator as  
51 contemplated in subparagraph b. of paragraph (a) of subdivision (2) of this subsection exists;

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

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

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

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

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

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

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

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

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

84 (c) His or her benefit year having expired prior to such week, he or she has insufficient  
85 wages or employment, or both, on the basis of which he or she could establish in any state a new  
86 benefit year that would include such week, or having established a new benefit year that includes  
87 such week, he or she is precluded from receiving regular compensation by reason of a state law  
88 provision which meets the requirement of section 3304(a)(7) of the Internal Revenue Code of  
89 1954; and

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

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

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

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

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

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

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

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

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

126           5. For the purposes of determining eligibility for extended benefits, the term "suitable  
127 work" means any work which is within such individual's capabilities except that, if the individual  
128 furnishes satisfactory evidence that the prospects for obtaining work in his or her customary  
129 occupation within a reasonably short period are good, the determination of what constitutes  
130 suitable work shall be made in accordance with the provisions of subdivision (3) of subsection  
131 1 of section 288.050. If a deputy finds that a person who is claiming extended benefits has  
132 refused to accept or to apply for suitable work, as defined in this subsection, or has failed to  
133 actively engage in seeking work subsequent to the effective date of his or her claim for extended  
134 benefits, that person shall be ineligible for extended benefits for the period beginning with the  
135 first day of the week in which such refusal or failure occurred. That ineligibility shall remain in  
136 effect until the person has been employed for at least four weeks after the week in which the  
137 refusal or failure occurred and has earned wages equal to at least four times his or her weekly  
138 benefit amount.

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

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

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

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

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

154           8. Extended benefits shall not be denied for failure to apply for or to accept suitable work  
155 if such failure would not result in a denial of benefits under subdivision (3) of subsection 1 of  
156 section 288.050 to the extent that the provisions of subdivision (3) of subsection 1 of section  
157 288.050 are not inconsistent with the provisions of subsections 5 and 6 of this section.

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

160           10. Notwithstanding other provisions of this chapter to the contrary, as to claims of  
161 extended benefits, subsections 4 to 9 of this section shall not apply to weeks of unemployment

162 beginning after March 6, 1993, and before January 1, 1995. Entitlement to extended benefits for  
163 weeks beginning after March 6, 1993, and before January 1, 1995, shall be determined in  
164 accordance with provisions of this chapter not excluded by this subsection.

165 11. "Weekly extended benefit amount." The weekly extended benefit amount payable  
166 to an individual for a week of total unemployment in his or her eligibility period shall be an  
167 amount equal to the weekly benefit amount payable to him or her during his or her applicable  
168 benefit year, reduced by a percentage equal to the percentage of the reduction in federal payments  
169 to states under Section 204 of the Federal State Extended Unemployment Compensation Act of  
170 1970, in accord with any order issued under any law of the United States. Such weekly benefit  
171 amount, if not a multiple of one dollar, shall be reduced to the nearest lower full dollar amount.

172 12. (1) "Total extended benefit amount." The total extended benefit amount payable to  
173 any eligible individual with respect to his or her applicable benefit year shall be the lesser of the  
174 following amounts:

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

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

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

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

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

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

195 and

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

197

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

202 13. (1) Whenever an extended benefit period is to become effective in this state as a  
203 result of a state "on" indicator, or an extended benefit period is to be terminated in this state as  
204 a result of a state "off" indicator, the director shall make an appropriate public announcement.

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

290.528. ~~[Any standards relating to minimum wages, maximum hours, overtime  
2 compensation or other working conditions in effect under any other law of this state on August  
3 28, 1990, which are more favorable to employees than those applicable to employees under  
4 sections 290.500 to 290.530 or the regulations issued under sections 290.500 to 290.530, shall  
5 not be deemed to be amended, rescinded, or otherwise affected by sections 290.500 to 290.530  
6 but shall continue in full force and effect and may be enforced as provided by law.]~~ **1. As used  
7 in this section, the following terms shall mean:**

8 (1) "Employee", an individual employed in this state by an employer;

9 (2) "Employer", any individual, sole proprietorship, partnership, limited liability  
10 company, corporation, or any other entity that is legally doing business in this state; except  
11 that, the term "employer" shall not include any public employer, as defined in section  
12 285.525;

13 (3) "Employment benefits", anything of value that an employee may receive from  
14 an employer in addition to wages and salary. The term includes, but is not limited to,  
15 health, disability, retirement, profit-sharing, and death benefits; group accidental death  
16 and dismemberment benefits; paid or unpaid days off from work for holidays, sick leave,  
17 vacation, and personal necessity; and terms of employment, attendance, or leave policies;

18 (4) "Political subdivision", any municipality, special district, local governmental  
19 body, county, city, town, or village.

20 2. No political subdivision shall establish, mandate, or otherwise require an  
21 employer to provide to an employee:

22 (1) A minimum or living wage rate; or

23 (2) Employment benefits  
24

25 that exceed state laws, rules, or regulations. Sections 290.500 to 290.530 shall preempt and  
26 nullify all political subdivision ordinances, rules, and regulations currently in effect or later

27 **enacted relating to the establishment or enforcement of a minimum or living wage or the**  
28 **provisions of employee benefits.**

~~[285.055. 1. As used in this section, the following terms shall mean:~~

2 ~~————— (1) "Employee", an individual employed in this state by an employer;~~

3 ~~————— (2) "Employer", any individual, sole proprietorship, partnership, limited~~  
4 ~~liability company, corporation, or any other entity that is legally doing business~~  
5 ~~in this state; provided, however, that employer shall not include any public~~  
6 ~~employer as defined in section 285.525;~~

7 ~~————— (3) "Employment benefits", anything of value that an employee may~~  
8 ~~receive from an employer in addition to wages and salary. The term includes, but~~  
9 ~~is not limited to, health, disability, retirement, profit-sharing, and death benefits;~~  
10 ~~group accidental death and dismemberment benefits; paid or unpaid days off~~  
11 ~~from work for holidays, sick leave, vacation, and personal necessity; and terms~~  
12 ~~of employment, attendance, or leave policies;~~

13 ~~————— (4) "Political subdivision", any county, city, town, or village.~~

14 ~~————— 2. No political subdivision shall establish, mandate, or otherwise require~~  
15 ~~an employer to provide to an employee:~~

16 ~~————— (1) A minimum or living wage rate; or~~

17 ~~————— (2) Employment benefits;~~

18  
19 ~~————— that exceed the requirements of federal or state laws, rules, or regulations. The~~  
20 ~~provisions of this subsection shall not preempt any state law or local minimum~~  
21 ~~wage ordinance requirements in effect on August 28, 2015.]~~  
22

Section B. Because of the immediate need to protect the economic environment in the  
2 state from significant fluctuations and regulatory disparity, this act is deemed necessary for the  
3 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared  
4 to be an emergency act within the meaning of the constitution, and this act shall be in full force  
5 and effect upon its passage and approval.

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