

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 163
96TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industry, February 24, 2011, with recommendation that the Senate Committee Substitute do pass.

0747S.05C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 288.040, 288.062, 288.330, and 288.398, RSMo, and to enact in lieu thereof four 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 288.040, 288.062, 288.330, and 288.398, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 288.040, 288.062, 288.330, and 288.398, to read as follows:

288.040. 1. A claimant who is unemployed and has been determined to
2 be an insured worker shall be eligible for benefits for any week only if the deputy
3 finds that:

4 (1) The claimant has registered for work at and thereafter has continued
5 to report at an employment office in accordance with such regulations as the
6 division may prescribe;

7 (2) The claimant is able to work and is available for work. No person
8 shall be deemed available for work unless such person has been and is actively
9 and earnestly seeking work. Upon the filing of an initial or renewed claim, and
10 prior to the filing of each weekly claim thereafter, the deputy shall notify each
11 claimant of the number of work search contacts required to constitute an active
12 search for work. No person shall be considered not available for work, pursuant
13 to this subdivision, solely because he or she is a substitute teacher or is on jury
14 duty. A claimant shall not be determined to be ineligible pursuant to this
15 subdivision because of not actively and earnestly seeking work if:

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 (a) The claimant is participating in training approved pursuant to Section
17 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended);

18 (b) The claimant is temporarily unemployed through no fault of his or her
19 own and has a definite recall date within eight weeks of his or her first day of
20 unemployment; however, upon application of the employer responsible for the
21 claimant's unemployment, such eight-week period may be extended not to exceed
22 a total of sixteen weeks at the discretion of the director;

23 (3) The claimant has reported in person to an office of the division as
24 directed by the deputy, but at least once every four weeks, except that a claimant
25 shall be exempted from the reporting requirement of this subdivision if:

26 (a) The claimant is claiming benefits in accordance with division
27 regulations dealing with partial or temporary total unemployment; or

28 (b) The claimant is temporarily unemployed through no fault of his or her
29 own and has a definite recall date within eight weeks of his or her first day of
30 unemployment; or

31 (c) The claimant resides in a county with an unemployment rate, as
32 published by the division, of ten percent or more and in which the county seat is
33 more than forty miles from the nearest division office;

34 (d) The director of the division of employment security has determined
35 that the claimant belongs to a group or class of workers whose opportunities for
36 reemployment will not be enhanced by reporting in person, or is prevented from
37 reporting due to emergency conditions that limit access by the general public to
38 an office that serves the area where the claimant resides, but only during the
39 time such circumstances exist. Ineligibility pursuant to this subdivision shall
40 begin on the first day of the week which the claimant was scheduled to claim and
41 shall end on the last day of the week preceding the week during which the
42 claimant does report in person to the division's office;

43 (4) Prior to the first week of a period of total or partial unemployment for
44 which the claimant claims benefits he or she has been totally or partially
45 unemployed for a waiting period of one week. No more than one waiting week
46 will be required in any benefit year. During calendar year 2008 and each
47 calendar year thereafter, the one-week waiting period shall become compensable
48 once his or her remaining balance on the claim is equal to or less than the
49 compensable amount for the waiting period. No week shall be counted as a week
50 of total or partial unemployment for the purposes of this subsection unless it
51 occurs within the benefit year which includes the week with respect to which the

52 claimant claims benefits;

53 (5) The claimant has made a claim for benefits within fourteen days from
54 the last day of the week being claimed. The fourteen-day period may, for good
55 cause, be extended to twenty-eight days;

56 (6) The claimant has reported to an employment office to participate in
57 a reemployment assessment and reemployment services as directed by the deputy
58 or designated staff of an employment office, unless the deputy determines that
59 good cause exists for the claimant's failure to participate in such reemployment
60 assessment and reemployment services. For purposes of this section,
61 "reemployment services" may include, but not be limited to, the following:

62 (a) Providing an orientation to employment office services;

63 (b) Providing job search assistance; and

64 (c) Providing labor market statistics or analysis;

65 Ineligibility under this subdivision shall begin on the first day of the week which
66 the claimant was scheduled to report for the reemployment assessment or
67 reemployment services and shall end on the last day of the week preceding the
68 week during which the claimant does report in person to the employment office
69 for such reemployment assessment or reemployment services;

70 (7) The claimant is participating in reemployment services, such as job
71 search assistance services, as directed by the deputy if the claimant has been
72 determined to be likely to exhaust regular benefits and to need reemployment
73 services pursuant to a profiling system established by the division, unless the
74 deputy determines that:

75 (a) The individual has completed such reemployment services; or

76 (b) There is justifiable cause for the claimant's failure to participate in
77 such reemployment services.

78 2. A claimant shall be ineligible for waiting week credit or benefits for any
79 week for which the deputy finds he or she is or has been suspended by his or her
80 most recent employer for misconduct connected with his or her
81 work. Suspensions of four weeks or more shall be treated as discharges.

82 3. (1) Benefits based on "service in employment", defined in subsections
83 7 and 8 of section 288.034, shall be payable in the same amount, on the same
84 terms and subject to the same conditions as compensation payable on the basis
85 of other service subject to this law; except that:

86 (a) With respect to service performed in an instructional, research, or
87 principal administrative capacity for an educational institution, benefits shall not

88 be paid based on such services for any week of unemployment commencing during
89 the period between two successive academic years or terms, or during a similar
90 period between two regular but not successive terms, or during a period of paid
91 sabbatical leave provided for in the individual's contract, to any individual if such
92 individual performs such services in the first of such academic years (or terms)
93 and if there is a contract or a reasonable assurance that such individual will
94 perform services in any such capacity for any educational institution in the
95 second of such academic years or terms;

96 (b) With respect to services performed in any capacity (other than
97 instructional, research, or principal administrative capacity) for an educational
98 institution, benefits shall not be paid on the basis of such services to any
99 individual for any week which commences during a period between two successive
100 academic years or terms if such individual performs such services in the first of
101 such academic years or terms and there is a contract or a reasonable assurance
102 that such individual will perform such services in the second of such academic
103 years or terms;

104 (c) With respect to services described in paragraphs (a) and (b) of this
105 subdivision, benefits shall not be paid on the basis of such services to any
106 individual for any week which commences during an established and customary
107 vacation period or holiday recess if such individual performed such services in the
108 period immediately before such vacation period or holiday recess, and there is
109 reasonable assurance that such individual will perform such services immediately
110 following such vacation period or holiday recess;

111 (d) With respect to services described in paragraphs (a) and (b) of this
112 subdivision, benefits payable on the basis of services in any such capacity shall
113 be denied as specified in paragraphs (a), (b), and (c) of this subdivision to any
114 individual who performed such services at an educational institution while in the
115 employ of an educational service agency, and for this purpose the term
116 "educational service agency" means a governmental agency or governmental
117 entity which is established and operated exclusively for the purpose of providing
118 such services to one or more educational institutions.

119 (2) If compensation is denied for any week pursuant to paragraph (b) or
120 (d) of subdivision (1) of this subsection to any individual performing services at
121 an educational institution in any capacity (other than instructional, research or
122 principal administrative capacity), and such individual was not offered an
123 opportunity to perform such services for the second of such academic years or

124 terms, such individual shall be entitled to a retroactive payment of the
125 compensation for each week for which the individual filed a timely claim for
126 compensation and for which compensation was denied solely by reason of
127 paragraph (b) or (d) of subdivision (1) of this subsection.

128 4. (1) A claimant shall be ineligible for waiting week credit, benefits or
129 shared work benefits for any week for which he or she is receiving or has received
130 remuneration exceeding his or her weekly benefit amount or shared work benefit
131 amount in the form of:

132 (a) Compensation for temporary partial disability pursuant to the workers'
133 compensation law of any state or pursuant to a similar law of the United States;

134 (b) A governmental or other pension, retirement or retired pay, annuity,
135 or other similar periodic payment which is based on the previous work of such
136 claimant to the extent that such payment is provided from funds provided by a
137 base period or chargeable employer pursuant to a plan maintained or contributed
138 to by such employer; but, except for such payments made pursuant to the Social
139 Security Act or the Railroad Retirement Act of 1974 (or the corresponding
140 provisions of prior law), the provisions of this paragraph shall not apply if the
141 services performed for such employer by the claimant after the beginning of the
142 base period (or remuneration for such services) do not affect eligibility for or
143 increase the amount of such pension, retirement or retired pay, annuity or similar
144 payment.

145 (2) If the remuneration referred to in this subsection is less than the
146 benefits which would otherwise be due, the claimant shall be entitled to receive
147 for such week, if otherwise eligible, benefits reduced by the amount of such
148 remuneration, and, if such benefit is not a multiple of one dollar, such amount
149 shall be lowered to the next multiple of one dollar.

150 (3) Notwithstanding the provisions of subdivisions (1) and (2) of this
151 subsection, if a claimant has contributed in any way to the Social Security Act or
152 the Railroad Retirement Act of 1974, or the corresponding provisions of prior law,
153 no part of the payments received pursuant to such federal law shall be deductible
154 from the amount of benefits received pursuant to this chapter.

155 5. A claimant shall be ineligible for waiting week credit or benefits for any
156 week for which or a part of which he or she has received or is seeking
157 unemployment benefits pursuant to an unemployment insurance law of another
158 state or the United States; provided, that if it be finally determined that the
159 claimant is not entitled to such unemployment benefits, such ineligibility shall

160 not apply.

161 6. (1) A claimant shall be ineligible for waiting week credit or benefits for
162 any week for which the deputy finds that such claimant's total or partial
163 unemployment is due to a stoppage of work which exists because of a labor
164 dispute in the factory, establishment or other premises in which such claimant
165 is or was last employed. In the event the claimant secures other employment
166 from which he or she is separated during the existence of the labor dispute, the
167 claimant must have obtained bona fide employment as a permanent employee for
168 at least the major part of each of two weeks in such subsequent employment to
169 terminate his or her ineligibility. If, in any case, separate branches of work
170 which are commonly conducted as separate businesses at separate premises are
171 conducted in separate departments of the same premises, each such department
172 shall for the purposes of this subsection be deemed to be a separate factory,
173 establishment or other premises. This subsection shall not apply if it is shown
174 to the satisfaction of the deputy that:

175 (a) The claimant is not participating in or financing or directly interested
176 in the labor dispute which caused the stoppage of work; and

177 (b) The claimant does not belong to a grade or class of workers of which,
178 immediately preceding the commencement of the stoppage, there were members
179 employed at the premises at which the stoppage occurs, any of whom are
180 participating in or financing or directly interested in the dispute.

181 (2) "Stoppage of work" as used in this subsection means a substantial
182 diminution of the activities, production or services at the establishment, plant,
183 factory or premises of the employing unit. This definition shall not apply to a
184 strike where the employees in the bargaining unit who initiated the strike are
185 participating in the strike. Such employees shall not be eligible for waiting week
186 credit or benefits during the period when the strike is in effect, regardless of
187 diminution, unless the employer has been found guilty of an unfair labor practice
188 by the National Labor Relations Board or a federal court of law for an act or
189 actions preceding or during the strike.

190 7. On or after January 1, 1978, benefits shall not be paid to any
191 individual on the basis of any services, substantially all of which consist of
192 participating in sports or athletic events or training or preparing to so
193 participate, for any week which commences during the period between two
194 successive sport seasons (or similar periods) if such individual performed such
195 services in the first of such seasons (or similar periods) and there is a reasonable

196 assurance that such individual will perform such services in the later of such
197 seasons (or similar periods).

198 8. Benefits shall not be payable on the basis of services performed by an
199 alien, unless such alien is an individual who was lawfully admitted for permanent
200 residence at the time such services were performed, was lawfully present for
201 purposes of performing such services, or was permanently residing in the United
202 States under color of law at the time such services were performed (including an
203 alien who was lawfully present in the United States as a result of the application
204 of the provisions of Section 212(d)(5) of the Immigration and Nationality Act).

205 (1) Any data or information required of individuals applying for benefits
206 to determine whether benefits are not payable to them because of their alien
207 status shall be uniformly required from all applicants for benefits.

208 (2) In the case of an individual whose application for benefits would
209 otherwise be approved, no determination that benefits to such individual are not
210 payable because of such individual's alien status shall be made except upon a
211 preponderance of the evidence.

212 **9. A claimant shall be ineligible for waiting week credit or**
213 **benefits for any week such claimant has an outstanding penalty which**
214 **was assessed based upon an overpayment of benefits, as provided for**
215 **in subsection 9 of section 288.380.**

216 **10.** The directors of the division of employment security and the division
217 of workforce development shall submit to the governor, the speaker of the house
218 of representatives, and the president pro tem of the senate no later than October
219 15, 2006, a report outlining their recommendations for how to improve work
220 search verification and claimant reemployment activities. The recommendations
221 shall include, but not limited to how to best utilize "greathires.org", and how to
222 reduce the average duration of unemployment insurance claims. Each calendar
223 year thereafter, the directors shall submit a report containing their
224 recommendations on these issues by December thirty-first of each year.

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

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

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

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

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

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

20 [(b)] b. Equalled or exceeded four percent for weeks beginning prior to or
21 on September 25, 1982, or five percent for weeks beginning after September 25,
22 1982; except that, if the rate of insured unemployment as contemplated in this
23 subdivision equals or exceeds five percent for weeks beginning prior to or on
24 September 25, 1982, or six percent for weeks beginning after September 25, 1982,
25 the determination of an "on" indicator shall be made under this subdivision as if
26 this subdivision did not contain the provisions of **subparagraph a. of** paragraph
27 (a) of this subdivision; or

28 [(c)] (b) With respect to weeks of unemployment beginning on or after
29 February 1, 2009, and ending on or before the week ending four weeks prior to
30 the last week of unemployment for which one hundred percent federal sharing is
31 available under the provisions of Public Law 111-5, Section 2005(a) [or March 3,
32 2011, whichever should occur first]:

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

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

44 **c. Effective with respect to compensation for weeks of**
45 **unemployment beginning after the date of enactment of the Tax Relief,**
46 **Unemployment Insurance Reauthorization, and Job Creation Act of**
47 **2010, Public Law 111-312, and ending on August 28, 2013, the average**
48 **rate of total unemployment in the state (seasonally adjusted), as**
49 **determined by the United States Secretary of Labor, for the three-**
50 **month period referred to in subparagraph a. of this paragraph, equals**
51 **or exceeds one hundred and ten percent of such average for any or all**
52 **of the corresponding three-month periods ending in the three**
53 **preceding calendar years;**

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

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

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

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

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

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

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

79 (6) "Extended benefits" means benefits (including benefits payable to

80 federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. Chapter 85)
81 payable to an individual under the provisions of this section for weeks of
82 unemployment in his or her eligibility period;

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

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

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

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

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

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

116 Labor; and

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

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

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

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

131 (1) He or she is an exhaustee as defined in subdivision (8) of subsection
132 1 of this section;

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

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

149 4. A claimant shall not be eligible for extended benefits following any
150 disqualification imposed under subsection 1 or 2 of section 288.050, unless
151 subsequent to the effective date of the disqualification, the claimant has been

152 employed during at least four weeks and has earned wages equal to at least four
153 times his or her weekly benefit amount.

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

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

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

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

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

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

186 8. Extended benefits shall not be denied for failure to apply for or to
187 accept suitable work if such failure would not result in a denial of benefits under

188 subdivision (3) of subsection 1 of section 288.050 to the extent that the provisions
189 of subdivision (3) of subsection 1 of section 288.050 are not inconsistent with the
190 provisions of subsections 5 and 6 of this section.

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

194 10. Notwithstanding other provisions of this chapter to the contrary, as
195 to claims of extended benefits, subsections 4 to 9 of this section shall not apply
196 to weeks of unemployment beginning after March 6, 1993, and before January 1,
197 1995. Entitlement to extended benefits for weeks beginning after March 6, 1993,
198 and before January 1, 1995, shall be determined in accordance with provisions of
199 this chapter not excluded by this subsection.

200 11. "Weekly extended benefit amount." The weekly extended benefit
201 amount payable to an individual for a week of total unemployment in his or her
202 eligibility period shall be an amount equal to the weekly benefit amount payable
203 to him or her during his or her applicable benefit year, reduced by a percentage
204 equal to the percentage of the reduction in federal payments to states under
205 Section 204 of the Federal State Extended Unemployment Compensation Act of
206 1970, in accord with any order issued under any law of the United States. Such
207 weekly benefit amount, if not a multiple of one dollar, shall be reduced to the
208 nearest lower full dollar amount.

209 12. (1) "Total extended benefit amount." The total extended benefit
210 amount payable to any eligible individual with respect to his or her applicable
211 benefit year shall be the lesser of the following amounts:

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

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

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

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

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

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

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

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

244 13. (1) Whenever an extended benefit period is to become effective in this
245 state as a result of a state "on" indicator, or an extended benefit period is to be
246 terminated in this state as a result of a state "off" indicator, the director shall
247 make an appropriate public announcement.

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

288.330. 1. Benefits shall be deemed to be due and payable only to the
2 extent that moneys are available to the credit of the unemployment compensation
3 fund and neither the state nor the division shall be liable for any amount in
4 excess of such sums. The governor is authorized to apply for an advance to the
5 state unemployment fund and to accept the responsibility for the repayment of
6 such advance in order to secure to this state and its citizens the advantages
7 available under the provisions of federal law.

8 2. (1) The purpose of this subsection is to provide a method of providing
9 funds for the payment of unemployment benefits or maintaining an adequate fund

10 balance in the unemployment compensation fund, and as an alternative to
11 borrowing or obtaining advances from the federal unemployment trust fund or for
12 refinancing those loans or advances.

13 (2) For the purposes of this subsection, "credit instrument" means any
14 type of borrowing obligation issued under this section, including any bonds,
15 commercial line of credit note, tax anticipation note or similar instrument.

16 (3) (a) There is hereby created for the purposes of implementing the
17 provisions of this subsection a body corporate and politic to be known as the
18 "Board of Unemployment Fund Financing". The powers of the board shall be
19 vested in five board members who shall be the governor, lieutenant governor,
20 attorney general, director of the department of labor, and the commissioner of
21 administration. The board shall have all powers necessary to effectuate its
22 purposes including, without limitation, the power to provide a seal, keep records
23 of its proceedings, and provide for professional services. The governor shall serve
24 as chair, the lieutenant governor shall serve as vice chair, and the commissioner
25 of administration shall serve as secretary. Staff support for the board shall be
26 provided by the commissioner of administration.

27 (b) Notwithstanding the provisions of any other law to the contrary:

28 a. No officer or employee of this state shall be deemed to have forfeited
29 or shall forfeit his or her office or employment by reason of his or her acceptance
30 of an appointment as a board member or for his or her service to the board;

31 b. Board members shall receive no compensation for the performance of
32 their duties under this subsection, but each commissioner shall be reimbursed
33 from the funds of the commission for his or her actual and necessary expenses
34 incurred in carrying out his or her official duties under this subsection.

35 (c) In the event that any of the board members or officers of the board
36 whose signatures or facsimile signatures appear on any credit instrument shall
37 cease to be board members or officers before the delivery of such credit
38 instrument, their signatures or facsimile signatures shall be valid and sufficient
39 for all purposes as if such board members or officers had remained in office until
40 delivery of such credit instrument.

41 (d) Neither the board members executing the credit instruments of the
42 board nor any other board members shall be subject to any personal liability or
43 accountability by reason of the issuance of the credit instruments.

44 (4) The board is authorized, by offering for public negotiated sale, to issue,
45 sell, and deliver credit instruments, bearing interest at a fixed or variable rate

46 as shall be determined by the board[, which shall mature no later than ten years
47 after issuance,] in the name of the board in an amount determined by the
48 board. Such credit instruments may be issued, sold, and delivered for the
49 purposes set forth in subdivision (1) of this subsection. Such credit instrument
50 may only be issued upon the approval of a resolution authorizing such issuance
51 by a simple majority of the members of the board, with no other proceedings
52 required.

53 (5) The board shall provide for the payment of the principal of the credit
54 instruments, any redemption premiums, the interest on the credit instruments,
55 and the costs attributable to the credit instruments being issued or outstanding
56 as provided in this chapter. Unless the board directs otherwise, the credit
57 instrument shall be repaid in the same time frame and in the same amounts as
58 would be required for loans issued pursuant to 42 U.S.C. Section 1321[; however,
59 in no case shall credit instruments be outstanding for more than ten years].

60 (6) The board may irrevocably pledge money received from the credit
61 instrument and financing agreement repayment surcharge under subsection 3 of
62 section 288.128, and other money legally available to it, which is deposited in an
63 account authorized for credit instrument repayment in the special employment
64 security fund, provided that the general assembly has first appropriated moneys
65 received from such surcharge and other moneys deposited in such account for the
66 payment of credit instruments.

67 (7) Credit instruments issued under this section shall not constitute debts
68 of this state or of the board or any agency, political corporation, or political
69 subdivision of this state and are not a pledge of the faith and credit of this state,
70 the board or of any of those governmental entities and shall not constitute an
71 indebtedness within the meaning of any constitutional or statutory limitation
72 upon the incurring of indebtedness. The credit instruments are payable only from
73 revenue provided for under this chapter. The credit instruments shall contain a
74 statement to the effect that:

75 (a) Neither the state nor the board nor any agency, political corporation,
76 or political subdivision of the state shall be obligated to pay the principal or
77 interest on the credit instruments except as provided by this section; and

78 (b) Neither the full faith and credit nor the taxing power of the state nor
79 the board nor any agency, political corporation, or political subdivision of the
80 state is pledged to the payment of the principal, premium, if any, or interest on
81 the credit instruments.

82 (8) The board pledges and agrees with the owners of any credit
83 instruments issued under this section that the state will not limit or alter the
84 rights vested in the board to fulfill the terms of any agreements made with the
85 owners or in any way impair the rights and remedies of the owners until the
86 credit instruments are fully discharged.

87 (9) The board may prescribe the form, details, and incidents of the credit
88 instruments and make such covenants that in its judgment are advisable or
89 necessary to properly secure the payment thereof. If such credit instruments
90 shall be authenticated by the bank or trust company acting as registrar for such
91 by the manual signature of a duly authorized officer or employee thereof, the duly
92 authorized officers of the board executing and attesting such credit instruments
93 may all do so by facsimile signature provided such signatures have been duly
94 filed as provided in the uniform facsimile signature of public officials law,
95 sections 105.273 to 105.278, when duly authorized by resolution of the board, and
96 the provisions of section 108.175 shall not apply to such credit instruments. The
97 board may provide for the flow of funds and the establishment and maintenance
98 of separate accounts within the special employment security fund, including the
99 interest and sinking account, the reserve account, and other necessary accounts,
100 and may make additional covenants with respect to the credit instruments in the
101 documents authorizing the issuance of credit instruments including refunding
102 credit instruments. The resolutions authorizing the issuance of credit
103 instruments may also prohibit the further issuance of credit instruments or other
104 obligations payable from appropriated moneys or may reserve the right to issue
105 additional credit instruments to be payable from appropriated moneys on a parity
106 with or subordinate to the lien and pledge in support of the credit instruments
107 being issued and may contain other provisions and covenants as determined by
108 the board, provided that any terms, provisions or covenants provided in any
109 resolution of the board shall not be inconsistent with the provisions of this
110 section.

111 (10) The board may issue credit instruments to refund all or any part of
112 the outstanding credit instruments issued under this section including matured
113 but unpaid interest. As with other credit instruments issued under this section,
114 such refunding credit instruments may bear interest at a fixed or variable rate
115 as determined by the board.

116 (11) The credit instruments issued by the board, any transaction relating
117 to the credit instruments, and profits made from the sale of the credit

118 instruments are free from taxation by the state or by any municipality, court,
119 special district, or other political subdivision of the state.

120 (12) As determined necessary by the board the proceeds of the credit
121 instruments less the cost of issuance shall be placed in the state's unemployment
122 compensation fund and may be used for the purposes for which that fund may
123 otherwise be used. If those net proceeds are not placed immediately in the
124 unemployment compensation fund they shall be held in the special employment
125 security fund in an account designated for that purpose until they are transferred
126 to the unemployment compensation fund provided that the proceeds of refunding
127 credit instruments may be placed in an escrow account or such other account or
128 instrument as determined necessary by the board.

129 (13) The board may enter into any contract or agreement deemed
130 necessary or desirable to effectuate cost-effective financing hereunder. Such
131 agreements may include credit enhancement, credit support, or interest rate
132 agreements including, but not limited to, arrangements such as municipal bond
133 insurance; surety bonds; tax anticipation notes; liquidity facilities; forward
134 agreements; tender agreements; remarketing agreements; option agreements;
135 interest rate swap, exchange, cap, lock or floor agreements; letters of credit; and
136 purchase agreements. Any fees or costs associated with such agreements shall
137 be deemed administrative expenses for the purposes of calculating the credit
138 instrument and financing agreement repayment surcharge under subsection 3 of
139 section 288.128. The board, with consideration of all other costs being equal,
140 shall give preference to Missouri-headquartered financial institutions, or those
141 out-of-state-based financial institutions with at least one hundred Missouri
142 employees.

143 (14) To the extent this section conflicts with other laws the provisions of
144 this section prevail. This section shall not be subject to the provisions of sections
145 23.250 to 23.298.

146 (15) If the United States Secretary of Labor holds that a provision of this
147 subsection or of any provision related to the levy or use of the credit instrument
148 and financial agreement repayment surcharge does not conform with a federal
149 statute or would result in the loss to the state of any federal funds otherwise
150 available to it the board, in cooperation with the department of labor and
151 industrial relations, may administer this subsection, and other provisions related
152 to the credit instrument and financial agreement repayment surcharge, to
153 conform with the federal statute until the general assembly meets in its next

154 regular session and has an opportunity to amend this subsection or other
155 sections, as applicable.

156 (16) Nothing in this chapter shall be construed to prohibit the officials of
157 the state from borrowing from the government of the United States in order to
158 pay unemployment benefits under subsection 1 of this section or otherwise.

159 (17) (a) As used in this subdivision the term "lender" means any state or
160 national bank.

161 (b) The board is authorized to enter financial agreements with any lender
162 for the purposes set forth in subdivision (1) of this subsection, or to refinance
163 other financial agreements in whole or in part, upon the approval of the simple
164 majority of the members of the board of a resolution authorizing such financial
165 agreements, with no other proceedings required. [In no instance shall the
166 outstanding obligation under any financial agreement continue for more than ten
167 years.] Repayment of obligations to lenders shall be made from the special
168 employment security fund, section 288.310, subject to appropriation by the
169 general assembly.

170 (c) Financial agreements entered into under this subdivision shall not
171 constitute debts of this state or of the board or any agency, political corporation,
172 or political subdivision of this state and are not a pledge of the faith and credit
173 of this state, the board or of any of those governmental entities and shall not
174 constitute an indebtedness within the meaning of any constitutional or statutory
175 limitation upon the incurring of indebtedness. The financial agreements are
176 payable only from revenue provided for under this chapter. The financial
177 agreements shall contain a statement to the effect that:

178 a. Neither the state nor the board nor any agency, political corporation,
179 or political subdivision of the state shall be obligated to pay the principal or
180 interest on the financial agreements except as provided by this section; and

181 b. Neither the full faith and credit nor the taxing power of the state nor
182 the board nor any agency, political corporation, or political subdivision of the
183 state is pledged to the payment of the principal, premium, if any, or interest on
184 the financial agreements.

185 (d) Neither the board members executing the financial agreements nor
186 any other board members shall be subject to any personal liability or
187 accountability by reason of the execution of such financial agreements.

188 (e) The board may prescribe the form, details and incidents of the
189 financing agreements and make such covenants that in its judgment are

190 advisable or necessary to properly secure the payment thereof provided that any
191 terms, provisions or covenants provided in any such financing agreement shall
192 not be inconsistent with the provisions of this section. If such financing
193 agreements shall be authenticated by the bank or trust company acting as
194 registrar for such by the manual signature of a duly authorized officer or
195 employee thereof, the duly authorized officers of the board executing and
196 attesting such financing agreements may all do so by facsimile signature provided
197 such signatures have been duly filed as provided in the uniform facsimile
198 signature of public officials law, sections 105.273 to 105.278, when duly
199 authorized by resolution of the board and the provisions of section 108.175 shall
200 not apply to such financing agreements.

201 (18) The commission may issue credit instruments to refund all or any
202 part of the outstanding borrowing issued under this section including matured
203 but unpaid interest.

204 (19) The credit instruments issued by the commission, any transaction
205 relating to the credit instruments, and profits made from the issuance of credit
206 are free from taxation by the state or by any municipality, court, special district,
207 or other political subdivision of the state.

208 3. In event of the suspension of this law, any unobligated funds in the
209 unemployment compensation fund, and returned by the United States Treasurer
210 because such Federal Social Security Act is inoperative, shall be held in custody
211 by the treasurer and under supervision of the division until the legislature shall
212 provide for the disposition thereof. In event no disposition is made by the
213 legislature at the next regular meeting subsequent to suspension of said law, then
214 all unobligated funds shall be returned ratably to those who contributed thereto.

215 4. For purposes of this section, as contained in senate substitute no. 2 for
216 senate committee substitute for house substitute for house committee substitute
217 for house bill nos. 1268 and 1211, ninety-second general assembly, second regular
218 session, the revisor of statutes shall renumber subdivision (16) of subsection 2 of
219 such section as subdivision (17) of such subsection and renumber subdivision (17)
220 of subsection 2 of such section as subdivision (16) of such subsection.

288.398. 1. The division of employment security [may] **shall** contract
2 with one or more consumer reporting agencies, with preference given to those
3 which maintain offices within the state of Missouri, to provide secure electronic
4 access to information provided in the quarterly wage report to the division of
5 employment security by employing units. The consumer reporting agency shall

6 be limited to use of such information to those permitted under Section 604 of the
7 Federal Fair Credit Reporting Act (15 U.S.C. 1681b).

8 2. The information provided to a consumer reporting agency shall be
9 limited to the amount of wages reported by each employing unit, with the
10 employing unit's name and address, for each of or up to the last eight
11 quarters. For the purposes of this section, "consumer reporting agency" has the
12 meaning assigned by Section 603(f) of the Fair Credit Reporting Act (15 U.S.C.
13 1681f).

14 3. The information is subject to the privacy rules of this state and the
15 Federal Fair Credit Reporting Act in addition to this section. The consumer
16 reporting agency shall require that any user of the information shall, prior to
17 obtaining the wage report information, obtain a written consent from the
18 individual to whom that wage report information pertains.

19 4. The written consent shall prominently contain language specifying the
20 following:

21 (1) The consent to disclose is voluntary and refusal to consent to
22 disclosure of state wage information shall not be the basis for the denial of credit;

23 (2) If consent is granted, the information shall be released to specified
24 parties;

25 (3) Authorization by the individual is necessary for the release of wage
26 and employment history information;

27 (4) The specific application or transaction for the sole purpose of which
28 release is made;

29 (5) Division of employment security files containing wage and employment
30 history information submitted by employers may be accessed; and

31 (6) The identity and address of parties authorized to receive the released
32 information.

33 5. The consumer reporting agency shall require that the information
34 released shall be used only to verify the accuracy of the wage or employment
35 information previously provided by an individual in connection with a specific
36 transaction to satisfy its user's standard underwriting requirements or those
37 imposed upon the user, and to satisfy user's obligations, under applicable state
38 or federal fair credit reporting laws.

39 6. The division of employment security shall establish minimum audit,
40 security, net worth, and liability insurance standards, technological requirements,
41 any other terms and conditions deemed necessary in the discretion of the division

42 to safeguard the confidentiality of the information and to otherwise serve the
43 public interest. The division shall not pay any costs associated with the
44 establishment or maintenance of the access provided for by this subsection,
45 including but not limited to the costs of any audits of the consumer reporting
46 agency or users by the division. The division may void any contract authorized
47 by this section if the contractor is not complying with this section. Except in
48 cases of willful and wanton misconduct, the state and division are immune from
49 any liability in connection with information provided under this section, including
50 but not limited to liability with regard to the accuracy or use of the
51 information. Any fees received by the division of employment security from a
52 consumer reporting agency pursuant to this section shall be deposited in the
53 Missouri unemployment insurance trust fund and dedicated solely for benefit
54 payments.

55 7. Any person or entity who willfully fails to comply with any requirement
56 imposed under this subsection with respect to any consumer is liable in Missouri
57 state courts to that consumer to the same extent as provided for in Section 616
58 of the Federal Fair Credit Reporting Act (15 U.S.C. 1681n).

59 8. A consumer may bring an action in a circuit court to enjoin a violation
60 of this act.

61 9. Any person who knowingly and willfully obtains information pursuant
62 to this subsection from a consumer reporting agency under false pretenses shall
63 be punished to the same extent as provided under Section 619 of the Federal Fair
64 Credit Reporting Act (15 U.S.C. 1681q).

65 10. If the completeness or accuracy of any item of information in a
66 consumer's file at a consumer reporting agency obtained under this subsection is
67 disputed, the dispute resolution shall be handled according to Section 611 of the
68 Federal Fair Credit Reporting Act (15 U.S.C. 1681l).

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

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