

**SENATE AMENDMENT NO. \_\_\_\_\_**

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SCS/HCS/House Bill No. 611, Page 7, Section 288.030, Line 166,

2 by inserting immediately after said line the following:

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

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

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

21 (a) The claimant is participating in training approved  
22 pursuant to Section 236 of the Trade Act of 1974, as amended, (19

1 U.S.C.A. Sec. 2296, as amended);

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

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

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

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

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

23 (d)] The director of the division of employment security  
24 has determined that the claimant belongs to a group or class of  
25 workers whose opportunities for reemployment will not be enhanced  
26 by reporting [in person], or is prevented from reporting due to  
27 emergency conditions that limit access by the general public to  
28 an office that serves the area where the claimant resides, but  
29 only during the time such circumstances exist.

1 Ineligibility pursuant to this subdivision shall begin on the  
2 first day of the week which the claimant was scheduled to claim  
3 and shall end on the last day of the week preceding the week  
4 during which the claimant does report [in person] to the  
5 division's office;

6 (4) Prior to the first week of a period of total or partial  
7 unemployment for which the claimant claims benefits he or she has  
8 been totally or partially unemployed for a waiting period of one  
9 week. No more than one waiting week will be required in any  
10 benefit year. During calendar year 2008 and each calendar year  
11 thereafter, the one-week waiting period shall become compensable  
12 once his or her remaining balance on the claim is equal to or  
13 less than the compensable amount for the waiting period. No week  
14 shall be counted as a week of total or partial unemployment for  
15 the purposes of this subsection unless it occurs within the  
16 benefit year which includes the week with respect to which the  
17 claimant claims benefits;

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

22 (6) The claimant has reported to an employment office to  
23 participate in a reemployment assessment and reemployment  
24 services as directed by the deputy or designated staff of an  
25 employment office, unless the deputy determines that good cause  
26 exists for the claimant's failure to participate in such  
27 reemployment assessment and reemployment services. For purposes  
28 of this section, "reemployment services" may include, but not be  
29 limited to, the following:

- 1 (a) Providing an orientation to employment office services;
- 2 (b) Providing job search assistance; and
- 3 (c) Providing labor market statistics or analysis;

4 Ineligibility under this subdivision shall begin on the first day  
5 of the week which the claimant was scheduled to report for the  
6 reemployment assessment or reemployment services and shall end on  
7 the last day of the week preceding the week during which the  
8 claimant does report in person to the employment office for such  
9 reemployment assessment or reemployment services;

10 (7) The claimant is participating in reemployment services,  
11 such as job search assistance services, as directed by the deputy  
12 if the claimant has been determined to be likely to exhaust  
13 regular benefits and to need reemployment services pursuant to a  
14 profiling system established by the division, unless the deputy  
15 determines that:

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

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

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

25 3. (1) Benefits based on "service in employment",  
26 [defined] described in subsections 7 and 8 of section 288.034,  
27 shall be payable in the same amount, on the same terms and  
28 subject to the same conditions as compensation payable on the  
29 basis of other service subject to this law; except that:

1           (a) With respect to service performed in an instructional,  
2           research, or principal administrative capacity for an educational  
3           institution, benefits shall not be paid based on such services  
4           for any week of unemployment commencing during the period between  
5           two successive academic years or terms, or during a similar  
6           period between two regular but not successive terms, or during a  
7           period of paid sabbatical leave provided for in the individual's  
8           contract, to any individual if such individual performs such  
9           services in the first of such academic years (or terms) and if  
10          there is a contract or a reasonable assurance that such  
11          individual will perform services in any such capacity for any  
12          educational institution in the second of such academic years or  
13          terms;

14          (b) With respect to services performed in any capacity  
15          (other than instructional, research, or principal administrative  
16          capacity) for an educational institution, benefits shall not be  
17          paid on the basis of such services to any individual for any week  
18          which commences during a period between two successive academic  
19          years or terms if such individual performs such services in the  
20          first of such academic years or terms and there is a contract or  
21          a reasonable assurance that such individual will perform such  
22          services in the second of such academic years or terms;

23          (c) With respect to services described in paragraphs (a)  
24          and (b) of this subdivision, benefits shall not be paid on the  
25          basis of such services to any individual for any week which  
26          commences during an established and customary vacation period or  
27          holiday recess if such individual performed such services in the  
28          period immediately before such vacation period or holiday recess,  
29          and there is reasonable assurance that such individual will

1 perform such services immediately following such vacation period  
2 or holiday recess;

3 (d) With respect to services described in paragraphs (a)  
4 and (b) of this subdivision, benefits payable on the basis of  
5 services in any such capacity shall be denied as specified in  
6 paragraphs (a), (b), and (c) of this subdivision to any  
7 individual who performed such services at an educational  
8 institution while in the employ of an educational service agency,  
9 and for this purpose the term "educational service agency" means  
10 a governmental agency or governmental entity which is established  
11 and operated exclusively for the purpose of providing such  
12 services to one or more educational institutions.

13 (2) If compensation is denied for any week pursuant to  
14 paragraph (b) or (d) of subdivision (1) of this subsection to any  
15 individual performing services at an educational institution in  
16 any capacity (other than instructional, research or principal  
17 administrative capacity), and such individual was not offered an  
18 opportunity to perform such services for the second of such  
19 academic years or terms, such individual shall be entitled to a  
20 retroactive payment of the compensation for each week for which  
21 the individual filed a timely claim for compensation and for  
22 which compensation was denied solely by reason of paragraph (b)  
23 or (d) of subdivision (1) of this subsection.

24 4. (1) A claimant shall be ineligible for waiting week  
25 credit, benefits or shared work benefits for any week for which  
26 he or she is receiving or has received remuneration exceeding his  
27 or her weekly benefit amount or shared work benefit amount in the  
28 form of:

29 (a) Compensation for temporary partial disability pursuant

1 to the workers' compensation law of any state or pursuant to a  
2 similar law of the United States;

3 (b) A governmental or other pension, retirement or retired  
4 pay, annuity, or other similar periodic payment which is based on  
5 the previous work of such claimant to the extent that such  
6 payment is provided from funds provided by a base period or  
7 chargeable employer pursuant to a plan maintained or contributed  
8 to by such employer; but, except for such payments made pursuant  
9 to the Social Security Act or the Railroad Retirement Act of 1974  
10 (or the corresponding provisions of prior law), the provisions of  
11 this paragraph shall not apply if the services performed for such  
12 employer by the claimant after the beginning of the base period  
13 (or remuneration for such services) do not affect eligibility for  
14 or increase the amount of such pension, retirement or retired  
15 pay, annuity or similar payment.

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

22 (3) Notwithstanding the provisions of subdivisions (1) and  
23 (2) of this subsection, if a claimant has contributed in any way  
24 to the Social Security Act or the Railroad Retirement Act of  
25 1974, or the corresponding provisions of prior law, no part of  
26 the payments received pursuant to such federal law shall be  
27 deductible from the amount of benefits received pursuant to this  
28 chapter.

29 5. A claimant shall be ineligible for waiting week credit

1 or benefits for any week for which or a part of which he or she  
2 has received or is seeking unemployment benefits pursuant to an  
3 unemployment insurance law of another state or the United States;  
4 provided, that if it be finally determined that the claimant is  
5 not entitled to such unemployment benefits, such ineligibility  
6 shall not apply.

7 6. (1) A claimant shall be ineligible for waiting week  
8 credit or benefits for any week for which the deputy finds that  
9 such claimant's total or partial unemployment is due to a  
10 stoppage of work which exists because of a labor dispute in the  
11 factory, establishment or other premises in which such claimant  
12 is or was last employed. In the event the claimant secures other  
13 employment from which he or she is separated during the existence  
14 of the labor dispute, the claimant must have obtained bona fide  
15 employment as a permanent employee for at least the major part of  
16 each of two weeks in such subsequent employment to terminate his  
17 or her ineligibility. If, in any case, separate branches of work  
18 which are commonly conducted as separate businesses at separate  
19 premises are conducted in separate departments of the same  
20 premises, each such department shall for the purposes of this  
21 subsection be deemed to be a separate factory, establishment or  
22 other premises. This subsection shall not apply if it is shown  
23 to the satisfaction of the deputy that:

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

27 (b) The claimant does not belong to a grade or class of  
28 workers of which, immediately preceding the commencement of the  
29 stoppage, there were members employed at the premises at which



1 the stoppage occurs, any of whom are participating in or  
2 financing or directly interested in the dispute.

3 (2) "Stoppage of work" as used in this subsection means a  
4 substantial diminution of the activities, production or services  
5 at the establishment, plant, factory or premises of the employing  
6 unit. This definition shall not apply to a strike where the  
7 employees in the bargaining unit who initiated the strike are  
8 participating in the strike. Such employees shall not be  
9 eligible for waiting week credit or benefits during the period  
10 when the strike is in effect, regardless of diminution, unless  
11 the employer has been found guilty of an unfair labor practice by  
12 the National Labor Relations Board or a federal court of law for  
13 an act or actions preceding or during the strike.

14 7. On or after January 1, 1978, benefits shall not be paid  
15 to any individual on the basis of any services, substantially all  
16 of which consist of participating in sports or athletic events or  
17 training or preparing to so participate, for any week which  
18 commences during the period between two successive sport seasons  
19 (or similar periods) if such individual performed such services  
20 in the first of such seasons (or similar periods) and there is a  
21 reasonable assurance that such individual will perform such  
22 services in the later of such seasons (or similar periods).

23 8. Benefits shall not be payable on the basis of services  
24 performed by an alien, unless such alien is an individual who was  
25 lawfully admitted for permanent residence at the time such  
26 services were performed, was lawfully present for purposes of  
27 performing such services, or was permanently residing in the  
28 United States under color of law at the time such services were  
29 performed (including an alien who was lawfully present in the

1 United States as a result of the application of the provisions of  
2 Section 212(d) (5) of the Immigration and Nationality Act).

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

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

12 9. A claimant shall be ineligible for waiting week credit  
13 or benefits for any week such claimant has an outstanding penalty  
14 which was assessed based upon an overpayment of benefits, as  
15 provided for in subsection 9 of section 288.380.

16 10. The directors of the division of employment security  
17 and the division of workforce development shall submit to the  
18 governor, the speaker of the house of representatives, and the  
19 president pro tem of the senate no later than October 15, 2006, a  
20 report outlining their recommendations for how to improve work  
21 search verification and claimant reemployment activities. The  
22 recommendations shall include, but not limited to how to best  
23 utilize "greathires.org", and how to reduce the average duration  
24 of unemployment insurance claims. Each calendar year thereafter,  
25 the directors shall submit a report containing their  
26 recommendations on these issues by December thirty-first of each  
27 year.

28 11. For purposes of this section, a claimant may satisfy  
29 reporting requirements provided under this section by reporting

1 by internet communication or any other means deemed acceptable by  
2 the division of employment security."; and

3 Further amend the title and enacting clause accordingly.

4