

SECOND REGULAR SESSION

# HOUSE BILL NO. 1824

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE PRICE.

3900H.011

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To repeal sections 288.040 and 288.500, RSMo, and to enact in lieu thereof two new sections relating to unemployment compensation.

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

Section A. Sections 288.040 and 288.500, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 288.040 and 288.500, to read as follows:

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

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

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

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

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.

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

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

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

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

29 (c) The director of the division of employment security has determined that the  
30 claimant belongs to a group or class of workers whose opportunities for reemployment will  
31 not be enhanced by reporting, or is prevented from reporting due to emergency conditions that  
32 limit access by the general public to an office that serves the area where the claimant resides,  
33 but only during the time such circumstances exist.

34

35 Ineligibility pursuant to this subdivision shall begin on the first day of the week which the  
36 claimant was scheduled to claim and shall end on the last day of the week preceding the week  
37 during which the claimant does report to the division's office;

38 (4) Prior to the first week of a period of total or partial unemployment for which the  
39 claimant claims benefits he or she has been totally or partially unemployed for a waiting  
40 period of one week. No more than one waiting week will be required in any benefit year.  
41 During calendar year 2008 and each calendar year thereafter, the one-week waiting period  
42 shall become compensable once his or her remaining balance on the claim is equal to or less  
43 than the compensable amount for the waiting period. No week shall be counted as a week of  
44 total or partial unemployment for the purposes of this subsection unless it occurs within the  
45 benefit year which includes the week with respect to which the claimant claims benefits.  
46 **Effective for calendar year 2027 and each year thereafter, the waiting period of one**  
47 **week shall not apply to any new claims filed on or after January 1, 2027, and such one-**  
48 **week period shall be included in the determination of unemployment benefits upon the**  
49 **filing of a claim, provided all other eligibility requirements are met;**

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

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

- 59           (a) Providing an orientation to employment office services;
- 60           (b) Providing job search assistance; and
- 61           (c) Providing labor market statistics or analysis;

62

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

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

- 72           (a) The individual has completed such reemployment services; or
- 73           (b) There is justifiable cause for the claimant's failure to participate in such  
74 reemployment services.

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

79           3. (1) Benefits based on "service in employment", described in subsections 7 and 8 of  
80 section 288.034, shall be payable in the same amount, on the same terms and subject to the  
81 same conditions as compensation payable on the basis of other service subject to this law;  
82 except that:

- 83           (a) With respect to service performed in an instructional, research, or principal  
84 administrative capacity for an educational institution, benefits shall not be paid based on such  
85 services for any week of unemployment commencing during the period between two  
86 successive academic years or terms, or during a similar period between two regular but not  
87 successive terms, or during a period of paid sabbatical leave provided for in the individual's  
88 contract, to any individual if such individual performs such services in the first of such  
89 academic years (or terms) and if there is a contract or a reasonable assurance that such

90 individual will perform services in any such capacity for any educational institution in the  
91 second of such academic years or terms;

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

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

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

112 (2) If compensation is denied for any week pursuant to paragraph (b) or (d) of  
113 subdivision (1) of this subsection to any individual performing services at an educational  
114 institution in any capacity (other than instructional, research or principal administrative  
115 capacity), and such individual was not offered an opportunity to perform such services for the  
116 second of such academic years or terms, such individual shall be entitled to a retroactive  
117 payment of the compensation for each week for which the individual filed a timely claim for  
118 compensation and for which compensation was denied solely by reason of paragraph (b) or  
119 (d) of subdivision (1) of this subsection.

120 4. (1) A claimant shall be ineligible for waiting week credit, benefits or shared work  
121 benefits for any week for which he or she is receiving or has received remuneration exceeding  
122 his or her weekly benefit amount or shared work benefit amount in the form of:

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

125 (b) A governmental or other pension, retirement or retired pay, annuity, or other  
126 similar periodic payment which is based on the previous work of such claimant to the extent

127 that such payment is provided from funds provided by a base period or chargeable employer  
128 pursuant to a plan maintained or contributed to by such employer; but, except for such  
129 payments made pursuant to the Social Security Act or the Railroad Retirement Act of 1974  
130 (or the corresponding provisions of prior law), the provisions of this paragraph shall not apply  
131 if the services performed for such employer by the claimant after the beginning of the base  
132 period (or remuneration for such services) do not affect eligibility for or increase the amount  
133 of such pension, retirement or retired pay, annuity or similar payment.

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

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

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

148 6. (1) A claimant shall be ineligible for waiting week credit or benefits for any week  
149 for which the deputy finds that such claimant's total or partial unemployment is due to a  
150 stoppage of work which exists because of a labor dispute in the factory, establishment or other  
151 premises in which such claimant is or was last employed. In the event the claimant secures  
152 other employment from which he or she is separated during the existence of the labor dispute,  
153 the claimant must have obtained bona fide employment as a permanent employee for at least  
154 the major part of each of two weeks in such subsequent employment to terminate his or her  
155 ineligibility. If, in any case, separate branches of work which are commonly conducted as  
156 separate businesses at separate premises are conducted in separate departments of the same  
157 premises, each such department shall for the purposes of this subsection be deemed to be a  
158 separate factory, establishment or other premises. This subsection shall not apply if it is  
159 shown to the satisfaction of the deputy that:

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

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

164 the premises at which the stoppage occurs, any of whom are participating in or financing or  
165 directly interested in the dispute.

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

174 7. On or after January 1, 1978, benefits shall not be paid to any individual on the basis  
175 of any services, substantially all of which consist of participating in sports or athletic events  
176 or training or preparing to so participate, for any week which commences during the period  
177 between two successive sport seasons (or similar periods) if such individual performed such  
178 services in the first of such seasons (or similar periods) and there is a reasonable assurance  
179 that such individual will perform such services in the later of such seasons (or similar  
180 periods).

181 8. Benefits shall not be payable on the basis of services performed by an alien, unless  
182 such alien is an individual who was lawfully admitted for permanent residence at the time  
183 such services were performed, was lawfully present for purposes of performing such services,  
184 or was permanently residing in the United States under color of law at the time such services  
185 were performed (including an alien who was lawfully present in the United States as a result  
186 of the application of the provisions of Section 212(d)(5) of the Immigration and Nationality  
187 Act, **8 U.S.C. Section 1182, as amended**).

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

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

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

197 10. The directors of the division of employment security and the division of  
198 workforce development shall submit to the governor, the speaker of the house of  
199 representatives, and the president pro tem of the senate no later than October 15, 2006, a  
200 report outlining their recommendations for how to improve work search verification and

201 claimant reemployment activities. The recommendations shall include, but not limited to  
202 how to best utilize "greathires.org", and how to reduce the average duration of unemployment  
203 insurance claims. Each calendar year thereafter, the directors shall submit a report containing  
204 their recommendations on these issues by December thirty-first of each year.

205 11. For purposes of this section, a claimant may satisfy reporting requirements  
206 provided under this section by reporting by internet communication or any other means  
207 deemed acceptable by the division of employment security.

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

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

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

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

9 (3) "Fringe benefit", health insurance, a retirement benefit received under a defined  
10 benefit pension plan, as defined in Section 414(j) of the Internal Revenue Code, or  
11 contributions under a defined contribution plan, as defined in Section 414(i) of the Internal  
12 Revenue Code, a paid vacation day, a paid holiday, sick leave, and any other analogous  
13 employee benefit that is provided by an employer;

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

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

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

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

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

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

30           3. An employer who wishes to participate in the shared work unemployment  
31 compensation program established under this section shall submit a written shared work plan  
32 in a form acceptable to the division for approval. As a condition for approval by the division,  
33 a participating employer shall agree to furnish the division with reports relating to the  
34 operation of the shared work plan as requested by the division. The employer shall monitor  
35 and evaluate the operation of the established shared work plan as requested by the division  
36 and shall report the findings to the division.

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

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

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

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

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

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

47           (6) The employer certifies that, if the participating employer provides fringe benefits,  
48 as defined in this section, to any employee in the affected unit, such benefits shall continue to  
49 be provided to employees participating in the shared work unemployment compensation  
50 program under the same terms and conditions as though the normal weekly hours of work had  
51 not been reduced or to the same extent as other employees not participating in the shared  
52 work unemployment compensation program;

53           (7) The employer certifies that the implementation of a shared work plan and the  
54 resulting reduction in work hours is in lieu of layoffs that would affect at least ten percent of  
55 the employees in the affected unit and that would result in an equivalent reduction in work  
56 hours;

57           (8) The shared work plan includes an estimate of the number of employees who  
58 would be laid off if the employer does not participate in the shared work unemployment  
59 compensation program;

60           (9) The shared work plan describes the manner in which employees in the affected  
61 unit will be notified of the employer's participation in the shared work unemployment  
62 compensation program. If the employer will not provide advance notice to the employees in  
63 the affected unit, the shared work plan must contain a statement explaining why it is not  
64 feasible to provide advance notice;



65 (10) The employer certifies that participation in the shared work plan and its  
66 implementation is consistent with the employer's obligation under applicable federal and state  
67 laws; and

68 (11) The shared work plan includes any other provision that the United States  
69 Secretary of Labor determines to be appropriate for the purpose of a shared work  
70 unemployment compensation program.

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

74 6. No shared work plan which will subsidize seasonal employers during the off-  
75 season shall be approved by the division. No shared work plan benefits will be initiated when  
76 the reduced hours coincide with holiday earnings already committed to be paid by the  
77 employer. Shared work plan benefits may not be denied in any week containing a holiday for  
78 which holiday earnings are committed to be paid by the employer unless the shared work  
79 benefits to be paid are for the same hours in the same day as the holiday earnings.

80 7. The division shall approve or deny a shared work plan not later than the thirtieth  
81 day after the day on which the shared work plan is received by the division. The division  
82 shall approve or deny a plan in writing. If the division denies a plan, the division shall notify  
83 the employer of the reasons for the denial. Approval or denial of a plan by the division shall  
84 be final and such determination shall be subject to review in the manner otherwise provided  
85 by law. If approval of a plan is denied by the division, the employer may submit a new plan  
86 to the division for consideration no sooner than forty-five calendar days following the date on  
87 which the division disapproved the employer's previously submitted plan.

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

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

97 10. An employer may modify a shared work plan created under this section to meet  
98 changed conditions if the modification conforms to the basic provisions of the shared work  
99 plan as originally approved by the division. The employer shall report the changes made to  
100 the plan in writing to the division at least seven days before implementing such changes. The  
101 division shall reevaluate the shared work plan and may approve the modified shared work

102 plan if it meets the requirements for approval under subsection 4 of this section. The approval  
103 of a modified shared work plan shall not, under any circumstances, affect the expiration date  
104 originally set for the shared work plan. If modifications cause the shared work plan to fail to  
105 meet the requirements for approval, the division shall deny approval of the modifications as  
106 provided in subsection 7 of this section.

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

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

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

116 (2) Notwithstanding the provisions of subdivision (2) of subsection 1 of section  
117 288.040, the individual is able to work and available for his or her normal hours of work with  
118 the participating employer;

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

121 (4) The individual has served a waiting week as defined in section 288.030, **except as**  
122 **provided under subsection 13 of this section.**

123 13. A waiting week served under the provisions of subdivision (3) of subsection 1 of  
124 section 288.040 shall serve to meet the requirements of subdivision (4) of subsection 12 of  
125 this section and a waiting week served under the provisions of subdivision (4) of subsection  
126 12 of this section shall serve to meet the requirements of section 288.040. Notwithstanding  
127 any other provisions of this chapter, an individual who files a new initial claim during the  
128 pendency of the twelve-month period in which a shared work plan is in effect shall serve a  
129 waiting week whether or not the individual has served a waiting week under this subsection.

130 **Effective for calendar year 2027 and each year thereafter, the waiting period of one**  
131 **week shall not apply to any new shared work benefits filed on or after January 1, 2027,**  
132 **and such one-week period shall be included in the determination of the shared work**  
133 **benefits, provided all other eligibility requirements are met.**

134 14. The division shall not deny shared work benefits for any week to an otherwise  
135 eligible individual by reason of the application of any provision of this chapter that relates to  
136 availability for work, active search for work, refusal to apply for or accept work with an  
137 employer other than the participating employer under the plan, or training that is approved by

138 the director, as provided in section 288.055, such as employer-sponsored training or training  
139 funded under the Workforce Investment Act of 1998.

140 15. The division shall pay an individual who is eligible for shared work benefits  
141 under this section a weekly shared work benefit amount equal to the individual's regular  
142 weekly benefit amount for a period of total unemployment less any deductible amounts under  
143 this chapter except wages received from any employer, multiplied by the full percentage of  
144 reduction in the individual's hours as set forth in the employer's shared work plan. If the  
145 shared work benefit amount calculated under this subsection is not a multiple of one dollar,  
146 the division shall round the amount so calculated to the next lowest multiple of one dollar.

147 16. An individual shall not be entitled to receive shared work benefits and regular  
148 unemployment compensation benefits in an aggregate amount which exceeds the maximum  
149 total amount of benefits payable to that individual in a benefit year as provided under section  
150 288.060. Notwithstanding any other provisions of this chapter, an individual shall not be  
151 eligible to receive shared work benefits for more than fifty-two calendar weeks during the  
152 twelve-month period of the shared work plan. No week shall be counted as a week of  
153 unemployment for the purposes of this subsection unless it occurs within the twelve-month  
154 period of the shared work plan.

155 17. Notwithstanding any other provision of this chapter, all benefits paid under a  
156 shared work plan which are chargeable to the participating employer or any other base period  
157 employer shall be charged to employers in the same manner as regular unemployment  
158 benefits are chargeable under this chapter.

159 18. An individual who has received all of the shared work benefits and regular  
160 unemployment compensation benefits available in a benefit year is an exhaustee under  
161 section 288.062 and is entitled to receive extended benefits under section 288.062 if the  
162 individual is otherwise eligible under that section.

163 19. If the United States Secretary of Labor determines any provision of this section to  
164 be nonconforming with federal law, the nonconforming provision shall not affect the validity  
165 of the remaining provisions of this section.

✓