

House File 589 (S-3332) & S. Pass 4/4 (S 1991)

MAR 20 1991

HOUSE FILE 589
BY COMMITTEE ON LABOR AND
INDUSTRIAL RELATIONS

Place on calendar

(SUCCESSOR TO HSB 37)

Passed House, Date 3/25/1991 (S17) Passed Senate, Date 4/10/1991 (S17)
Vote: Ayes 97 Nays 0 Vote: Ayes 42 Nays 0

Approved May 22, 1991

Approved House Amendment to Senate

4/22/91 (S 1991)

Approved by Senate

A BILL FOR

1 An Act relating to the administration of a voluntary shared work
2 unemployment compensation program administered by the
3 department of employment services, and providing an effective
4 date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 589

S-3332

1 Amend House File 589, as passed by the House, as
2 follows:
3 1. Page 4, line 12, by striking the word and
4 figure "January 1," and inserting the following:
5 "February 28,".

By COMMITTEE ON BUSINESS AND
LABOR RELATIONS
RICHARD RUNNING, Chairperson

S-3332 FILED APRIL 4, 1991

Senate Amendment

SENATE AMENDMENT TO HOUSE FILE 589

H-3704

1 Amend House File 589, as passed by the House, as
2 follows:
3 1. Page 4, line 12, by striking the word and
4 figure "January 1," and inserting the following:
5 "February 28,".

RECEIVED FROM THE SENATE

H-3704 FILED APRIL 18, 1991

Senate Amendment

H-3704

1 Section 1. NEW SECTION. 96.36 VOLUNTARY SHARED WORK
2 PROGRAM.

3 1. An employer who wishes to participate in the shared
4 work unemployment compensation program established under this
5 section shall submit a written shared work plan in a form
6 acceptable to the division for approval.

7 As a condition for approval by the division, a
8 participating employer shall agree to furnish the division
9 with reports relating to the operation of the shared work plan
10 as requested by the division. The employer shall monitor and
11 evaluate the operation of the established shared work plan as
12 requested by the division and shall report the findings to the
13 division.

14 2. The division may approve a shared work plan if all of
15 the following conditions are met:

16 a. The employer has filed all reports required to be filed
17 under this chapter for all past and current periods and has
18 paid all contributions due for all past and current periods.

19 b. The plan certifies that the aggregate reduction in work
20 hours is in lieu of temporary layoffs which would have
21 affected at least ten percent of the employees in the affected
22 unit or units to which the plan applies and which would have
23 resulted in an equivalent reduction in work hours. "Affected
24 unit" means a specified plant, department, shift, or other
25 definable unit.

26 c. The employees in the affected unit are identified by
27 name and social security number and consist of at least five
28 individuals.

29 d. The shared work plan reduces the normal weekly hours of
30 work for an employee in the affected unit by not less than
31 twenty percent and not more than fifty percent with a
32 corresponding reduction in wages. Only full-time employees
33 who normally work between thirty-five and forty hours per week
34 are eligible to participate.

35 e. The reduction in hours and corresponding reduction in

1 wages must be applied equally to all of the full-time
2 employees in the affected unit.

3 f. The plan provides that fringe benefits will continue to
4 be provided to employees in affected units as though their
5 workweeks had not been reduced.

6 g. The plan will not serve as a subsidy of seasonal
7 employment during the off season, nor as a subsidy of
8 temporary part-time or intermittent employment.

9 h. The employer certifies that the employer will not hire
10 additional part-time or full-time employees for the affected
11 work force while the program is in operation.

12 i. The duration of the shared work plan will not exceed
13 twenty-six weeks. An employing unit is eligible for approval
14 of only one plan during a twenty-four-month period.

15 j. The plan is approved in writing by the collective
16 bargaining representative for each employee organization or
17 union which has members in the affected unit.

18 3. The employer shall submit a shared work plan to the
19 division for approval at least thirty days prior to the
20 proposed implementation date.

21 4. The division may revoke approval of a shared work plan
22 and terminate the plan if the division determines that the
23 shared work plan is not being executed according to the terms
24 and intent of the shared work unemployment compensation
25 program, or if it is determined by the division that the
26 approval of the shared work plan was based, in whole or in
27 part, upon information contained in the plan which was either
28 false or substantially misleading.

29 5. An individual who is otherwise entitled to receive
30 regular unemployment compensation benefits under this chapter
31 shall be eligible to receive shared work benefits with respect
32 to any week in which the division finds all of the following:

33 a. The individual is employed as a member of an affected
34 unit subject to a shared work plan that was approved before
35 the week in question and is in effect for that week.

1 b. The individual is able to work, available for work, and
2 works all available hours with the participating employer.

3 c. The individual's normal weekly hours of work have been
4 reduced by at least twenty percent but not more than fifty
5 percent, with a corresponding reduction in wages.

6 6. The division shall not deny shared work benefits for
7 any week to an otherwise eligible individual by reason of the
8 application of any provision of this chapter which relates to
9 availability for work, active search for work, or refusal to
10 apply for or accept work with an employer other than the
11 participating employer under the plan.

12 7. The division shall pay an individual who is eligible
13 for shared work benefits under this section a weekly shared
14 work benefit amount equal to the individual's regular weekly
15 benefit amount for a period of total unemployment, less any
16 deductible amounts under this chapter except wages received
17 from any employer, multiplied by the full percentage of
18 reduction in the individual's hours as set forth in the
19 employer's shared work plan. If the shared work benefit
20 amount calculated under this subsection is not a multiple of
21 one dollar, the division shall round the amount so calculated
22 to the next lowest multiple of one dollar. An individual
23 shall be ineligible for shared work benefits for any week in
24 which the individual performs paid work for the participating
25 employer in excess of the reduced hours established under the
26 shared work plan.

27 8. An individual shall not be entitled to receive shared
28 work benefits and regular unemployment compensation benefits
29 in an aggregate amount which exceeds the maximum total amount
30 of benefits payable to that individual in a benefit year as
31 provided under section 96.3, subsection 5. Notwithstanding
32 any other provisions of this chapter, an individual shall not
33 be eligible to receive shared work benefits for more than
34 twenty-six calendar weeks during the individual's benefit
35 year.

1 9. Notwithstanding any other provisions of this chapter,
2 all benefits paid under a shared work plan, which are
3 chargeable to the participating employer or any other base
4 period employer of a participating employee, shall be charged
5 to the account of the participating employer under the plan.

6 10. An individual who has received all of the shared work
7 benefits and regular unemployment compensation benefits
8 available in a benefit year shall be considered an exhaustee,
9 as defined in section 96.19, subsection 34, for purposes of
10 the extended benefit program administered pursuant to section
11 96.29.

12 11. This section is repealed on January 1, 1995.

13 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
14 immediate importance, takes effect upon enactment.

15 EXPLANATION

16 The bill creates a voluntary shared work program for
17 employers facing a decline in business activity to be
18 administered by the division of job service in the department
19 of employment services. The section provides that an employer
20 may elect to reduce the hours and wages of all or a particular
21 group of employees rather than lay off workers when
22 experiencing a temporary decline in business activity. The
23 section also provides that several conditions must be
24 satisfied in order for an employer to receive approval for the
25 employer's plan from the division. The employees whose hours
26 and wages are reduced can receive partial unemployment
27 compensation benefits to supplement their lost wages. The
28 section is repealed on January 1, 1995 and is effective upon
29 enactment.

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**HOUSE FILE 589
FISCAL NOTE**

A fiscal note for House File 589 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 589 creates a voluntary shared work program. This allows an employer to reduce the hours and wages of all or a particular group of employees rather than laying them off. The employees would be eligible to receive partial unemployment compensation benefits. The bill is effective upon enactment and repealed on January 1, 1995.

ASSUMPTIONS:

1. Employment growth = 1.0% annually for 1991-1992
2.0% annually for 1993 and beyond
2. Wage growth = 3.75% annually
3. Interest rate on Unemployment Insurance Fund = 8.25% annually
4. Insured unemployment rate = 2.1% for CY 1991
2.4% for CY 1992
2.4% for CY 1993
2.3% for CY 1994
2.2% for CY 1995
5. Employee participation rate = 3.77%
6. Average reduction in work week = 1 day (20%)
7. Average duration of work share program = 9-12 weeks
8. Weeks claimed = 2,347,055 (the 1982 recession claims figure)
9. Average weekly benefit = \$153.74 (the 1990 average)

FISCAL IMPACT:

There would be no fiscal impact to the General Fund. However, the impact to the Unemployment Insurance Trust Fund would be additional expenditures of \$800,000 annually for calendar years 1992 and 1993.

Source: Department of Employment Services

(LSB 1377hv, MAS)

FILED MARCH 22, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE/HOUSE FILE 587
BY (PROPOSED DEPARTMENT OF
EMPLOYMENT SERVICES BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to unemployment insurance tax liability for
2 employee leasing companies and the administration of a
3 voluntary shared work unemployment compensation program
4 administered by the department of employment services.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 96.19, subsection 6, paragraph a,
2 subparagraph (2), Code 1991, is amended to read as follows:

3 (2) Any individual who, under the usual common law rules
4 applicable in determining the employer-employee relationship,
5 has the status of an employee, or. However, if a person
6 referred to in this subparagraph as the client, which would
7 otherwise meet the definition of an employing unit under
8 subsection 4, has contracted with an employee leasing company
9 to supply the client with workers, the workers, after December
10 31, 1991, shall be considered employees of the employee
11 leasing company. The employee leasing company shall be
12 permitted to lease corporate officers of the client to the
13 client and such other workers if not prohibited by federal
14 Internal Revenue Service regulations. Employees of the
15 employee leasing company shall be reported under the employee
16 leasing company's tax identification number and tax rate for
17 work performed for the employee leasing company.

18 Sec. 2. Section 96.19, Code 1991, is amended by adding the
19 following new subsections:

20 NEW SUBSECTION. 46. "Employee leasing company" means an
21 employing unit which for a fee places the employee of a client
22 onto its payroll and leases the employee to the client on an
23 ongoing basis as agreed to by the client and the employee
24 leasing company, maintains the records required by section
25 96.11, subsection 7, and maintains a list of the clients of
26 the employee leasing company and of the employees, including
27 their social security numbers, who have been assigned to work
28 at each client's job site. The client list shall be provided
29 to the division by June 30 and by December 31 annually.

30 NEW SUBSECTION. 47. "Client" means a person who has
31 contracted with an employee leasing company to provide a
32 worker or workers to perform services for the client. Leased
33 employees shall include employees subsequently placed on the
34 payroll of the employee leasing company on behalf of the
35 client.

1 Sec. 3. NEW SECTION. 96.36 VOLUNTARY SHARED WORK
2 PROGRAM.

3 1. An employer who wishes to participate in the shared
4 work unemployment compensation program established under this
5 section shall submit a written shared work plan in a form
6 acceptable to the division for approval.

7 As a condition for approval by the division, a
8 participating employer shall agree to furnish the division
9 with reports relating to the operation of the shared work plan
10 as requested by the division. The employer shall monitor and
11 evaluate the operation of the established shared work plan as
12 requested by the division and shall report the findings to the
13 division.

14 2. The division may approve a shared work plan if all of
15 the following conditions are met:

16 a. The employer has filed all reports required to be filed
17 under this chapter for all past and current periods and has
18 paid all contributions due for all past and current periods.

19 b. The plan certifies that the aggregate reduction in work
20 hours is in lieu of temporary layoffs which would have
21 affected at least ten percent of the employees in the affected
22 unit or units to which the plan applies and which would have
23 resulted in an equivalent reduction in work hours. "Affected
24 unit" means a specified plant, department, shift, or other
25 definable unit.

26 c. The employees in the affected unit are identified by
27 name and social security number and consist of at least five
28 individuals.

29 d. The shared work plan reduces the normal weekly hours of
30 work for an employee in the affected unit by not less than
31 twenty percent and not more than fifty percent with a
32 corresponding reduction in wages. Only full-time employees
33 who normally work between thirty-five and forty hours per week
34 are eligible to participate.

35 e. The reduction in hours and corresponding reduction in

1 wages must be applied equally to all of the employees in the
2 affected unit.

3 f. The plan provides that fringe benefits will continue to
4 be provided to employees in affected units as though their
5 workweeks had not been reduced.

6 g. The plan will not serve as a subsidy of seasonal
7 employment during the off season, nor as a subsidy of
8 temporary part-time or intermittent employment.

9 h. The employer certifies that the employer will not hire
10 additional part-time or full-time employees for the affected
11 work force while the program is in operation.

12 i. The duration of the shared work plan will not exceed
13 twenty-six weeks. An employing unit is eligible for approval
14 of only one plan during a twelve-month period.

15 3. The employer shall submit a shared work plan to the
16 division for approval at least thirty days prior to the
17 proposed implementation date.

18 4. The division may revoke approval of a shared work plan
19 and terminate the plan if the division determines that the
20 shared work plan is not being executed according to the terms
21 and intent of the shared work unemployment compensation
22 program, or if it is determined by the division that the
23 approval of the shared work plan was based, in whole or in
24 part, upon information contained in the plan which was either
25 false or substantially misleading.

26 5. An individual who is otherwise entitled to receive
27 regular unemployment compensation benefits under this chapter
28 shall be eligible to receive shared work benefits with respect
29 to any week in which the division finds all of the following:

30 a. The individual is employed as a member of an affected
31 unit subject to a shared work plan that was approved before
32 the week in question and is in effect for that week.

33 b. The individual is able to work, available for work, and
34 works all available hours with the participating employer.

35 c. The individual's normal weekly hours of work have been

1 reduced by at least twenty percent but not more than fifty
2 percent, with a corresponding reduction in wages.

3 6. The division shall not deny shared work benefits for
4 any week to an otherwise eligible individual by reason of the
5 application of any provision of this chapter which relates to
6 availability for work, active search for work, or refusal to
7 apply for or accept work with an employer other than the
8 participating employer under the plan.

9 7. The division shall pay an individual who is eligible
10 for shared work benefits under this section a weekly shared
11 work benefit amount equal to the individual's regular weekly
12 benefit amount for a period of total unemployment, less any
13 deductible amounts under this chapter except wages received
14 from any employer, multiplied by the full percentage of
15 reduction in the individual's hours as set forth in the
16 employer's shared work plan. If the shared work benefit
17 amount calculated under this subsection is not a multiple of
18 one dollar, the division shall round the amount so calculated
19 to the next lowest multiple of one dollar. An individual
20 shall be ineligible for shared work benefits for any week in
21 which the individual performs paid work for the participating
22 employer in excess of the reduced hours established under the
23 shared work plan.

24 8. An individual shall not be entitled to receive shared
25 work benefits and regular unemployment compensation benefits
26 in an aggregate amount which exceeds the maximum total amount
27 of benefits payable to that individual in a benefit year as
28 provided under section 96.3, subsection 5. Notwithstanding
29 any other provisions of this chapter, an individual shall not
30 be eligible to receive shared work benefits for more than
31 twenty-six calendar weeks during the individual's benefit
32 year.

33 9. Notwithstanding any other provisions of this chapter,
34 all benefits paid under a shared work plan, which are
35 chargeable to the participating employer or any other base

1 period employer of a participating employee, shall be charged
2 to the account of the participating employer under the plan.

3 10. An individual who has received all of the shared work
4 benefits and regular unemployment compensation benefits
5 available in a benefit year shall be considered an exhaustee,
6 as defined in section 96.19, subsection 34, for purposes of
7 the extended benefit program administered pursuant to section
8 96.29.

9 11. This section is repealed on January 1, 1995.

10

EXPLANATION

11 Section 1 requires employee leasing companies to be liable
12 for unemployment taxes beginning January 1, 1992, and to
13 report employees under the leasing company's tax
14 identification number.

15 Section 2 defines an employee leasing company and a client
16 of an employee leasing company and requires leasing companies
17 to provide a list of clients and employees assigned at each
18 job site to the department twice a year.

19 Section 3 of the bill creates a voluntary shared work
20 program for employers facing a decline in business activity to
21 be administered by the division of job service in the
22 department of employment services. The section provides that
23 an employer may elect to reduce the hours and wages of all or
24 a particular group of employees rather than lay off workers
25 when experiencing a temporary decline in business activity.
26 The section also provides that several conditions must be
27 satisfied in order for an employer to receive approval for the
28 employer's plan from the division. The employees whose hours
29 and wages are reduced can receive partial unemployment
30 compensation benefits to supplement their lost wages. The
31 section is repealed on January 1, 1995.

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BACKGROUND STATEMENT

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SUBMITTED BY THE AGENCY

34 Sections 1 and 2 of the bill establish enabling legislation
35 for employee leasing. Employee leasing provides an

1 alternative to the typical employer/employee relationship.
2 There are potential benefits for both employers and employees.
3 Employers pay one fee to the leasing company which is
4 responsible for all personnel matters including unemployment
5 tax liability, employee benefits, and labor market information
6 reporting. Employees of the leasing company are likely to be
7 eligible for enhanced benefit plans including health and
8 retirement benefits.

9 Section 3 of the bill provides for a voluntary shared work
10 program which is an alternative to layoff for an employer
11 faced with a temporary decline in business activity. The
12 program allows the employer an alternative to laying off
13 employees, risking the loss of valuable experienced employees,
14 and facing possible bankruptcy.

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HOUSE FILE 589

AN ACT

RELATING TO THE ADMINISTRATION OF A VOLUNTARY SHARED WORK
UNEMPLOYMENT COMPENSATION PROGRAM ADMINISTERED BY THE
DEPARTMENT OF EMPLOYMENT SERVICES, AND PROVIDING AN
EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SECTION 1. NEW SECTION. 96.36 VOLUNTARY SHARED WORK
PROGRAM.

1. An employer who wishes to participate in the shared
work unemployment compensation program established under this
section shall submit a written shared work plan in a form
acceptable to the division for approval.

As a condition for approval by the division, a
participating employer shall agree to furnish the division
with reports relating to the operation of the shared work plan
as requested by the division. The employer shall monitor and
evaluate the operation of the established shared work plan as

requested by the division and shall report the findings to the
division.

2. The division may approve a shared work plan if all of
the following conditions are met:

a. The employer has filed all reports required to be filed
under this chapter for all past and current periods and has
paid all contributions due for all past and current periods.

b. The plan certifies that the aggregate reduction in work
hours is in lieu of temporary layoffs which would have
affected at least ten percent of the employees in the affected
unit or units to which the plan applies and which would have
resulted in an equivalent reduction in work hours. "Affected
unit" means a specified plant, department, shift, or other
definable unit.

c. The employees in the affected unit are identified by
name and social security number and consist of at least five
individuals.

d. The shared work plan reduces the normal weekly hours of
work for an employee in the affected unit by not less than
twenty percent and not more than fifty percent with a
corresponding reduction in wages. Only full-time employees
who normally work between thirty-five and forty hours per week
are eligible to participate.

e. The reduction in hours and corresponding reduction in
wages must be applied equally to all of the full-time
employees in the affected unit.

f. The plan provides that fringe benefits will continue to
be provided to employees in affected units as though their
workweeks had not been reduced.

g. The plan will not serve as a subsidy of seasonal
employment during the off season, nor as a subsidy of
temporary part-time or intermittent employment.

h. The employer certifies that the employer will not hire
additional part-time or full-time employees for the affected
work force while the program is in operation.

1. The duration of the shared work plan shall not exceed twenty-six weeks. An employing unit is eligible for approval of only one plan during a twenty-four month period.

2. The plan is approved in writing by the collective bargaining representative for each employee organization or union which has members in the affected unit.

3. The employer shall submit a shared work plan to the Division for approval at least thirty days prior to the proposed implementation date.

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

5. An individual who is otherwise entitled to receive regular unemployment compensation benefits under this chapter shall be eligible to receive shared work benefits with respect to any week in which the division finds all of the following:

a. The individual is employed as a member of an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week.

b. The individual is able to work, available for work, and works all available hours with the participating employer.

c. The individual's normal weekly hours of work have been reduced by at least twenty percent but not more than fifty percent, with a corresponding reduction in wages.

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

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

8. An individual shall not be entitled to receive shared work benefits and regular unemployment compensation benefits in an aggregate amount which exceeds the maximum total amount of benefits payable to that individual in a benefit year as provided under section 96.03, subsection 5. Notwithstanding any other provisions of this chapter, an individual shall not be eligible to receive shared work benefits for more than thirty-six calendar weeks during the individual's benefit year.

9. Notwithstanding any other provisions of this chapter, all benefits paid under a shared work plan, which are chargeable to the participating employer or any other base period employer of a participating employee, shall be charged to the account of the participating employer under the plan.

10. An individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year shall be considered an exhaustee, as defined in section 96.19, subsection 34, for purposes of the extended benefit program administered pursuant to section 96.29.

11. This section is repealed on February 28, 1995.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

ROBERT C. ARNOULD
Speaker of the House

JOE J. WELSH
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 589, Seventy-fourth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 22, 1991

HF 589

TERRY E. BRANSTAD
Governor